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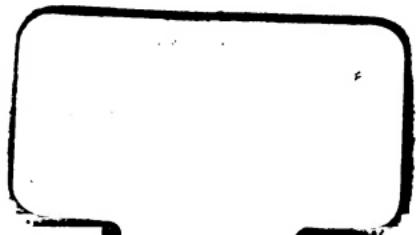
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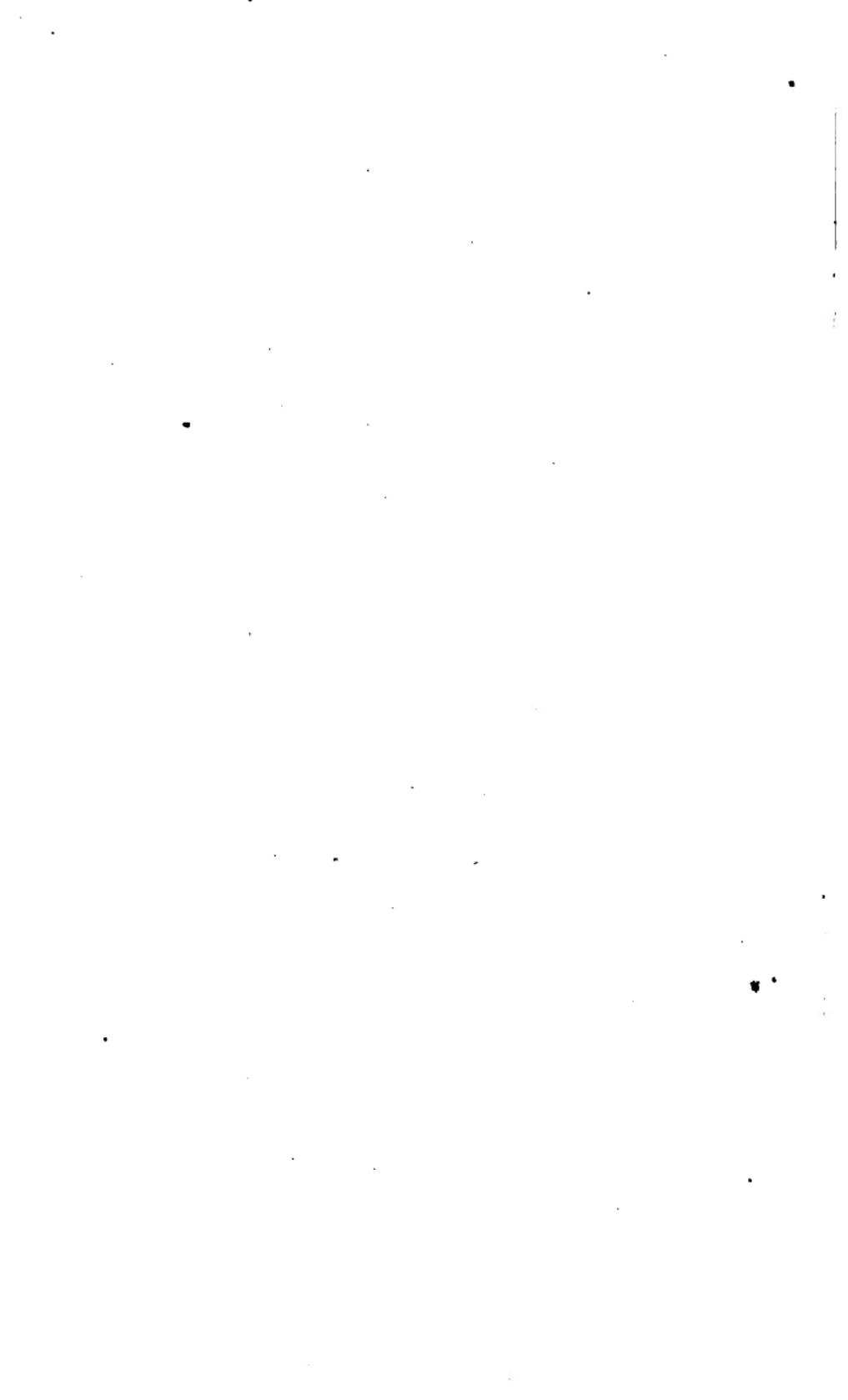
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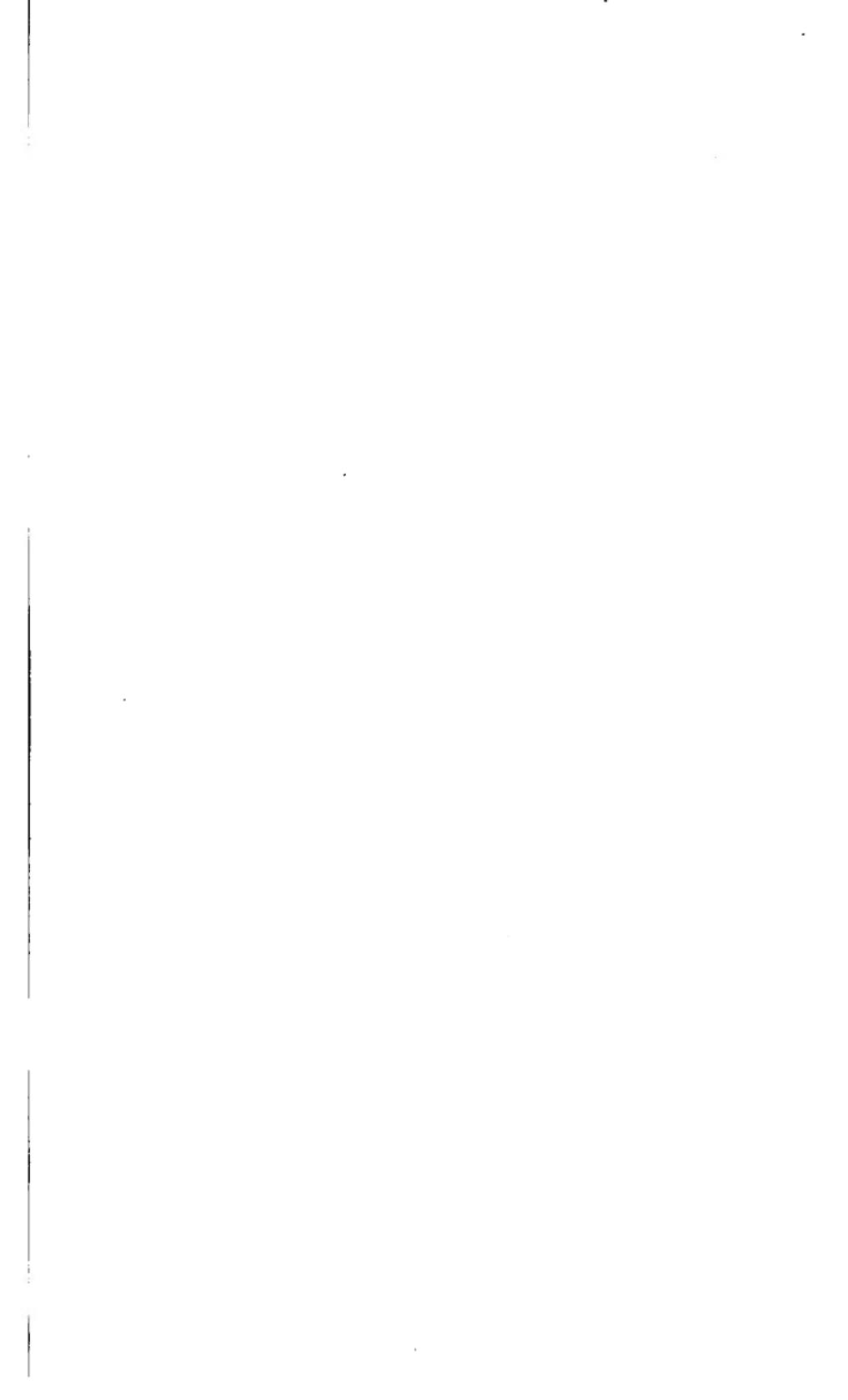
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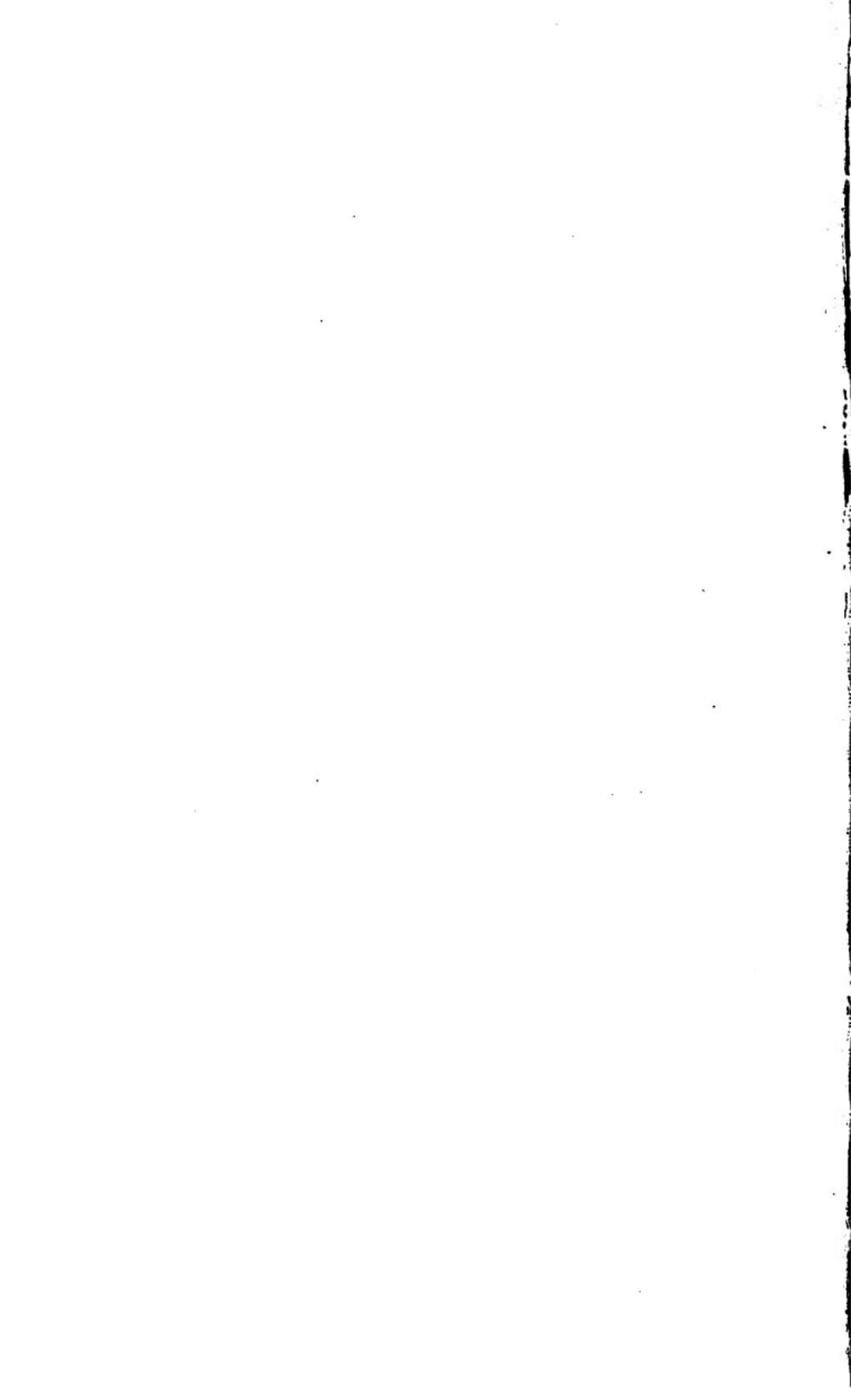
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MEMOIRS
OF
THE LIFE
OF
SIR SAMUEL ROMILLY,
WRITTEN BY HIMSELF;
WITH A SELECTION FROM
HIS CORRESPONDENCE.

EDITED BY HIS SONS.

IN TWO VOLUMES.

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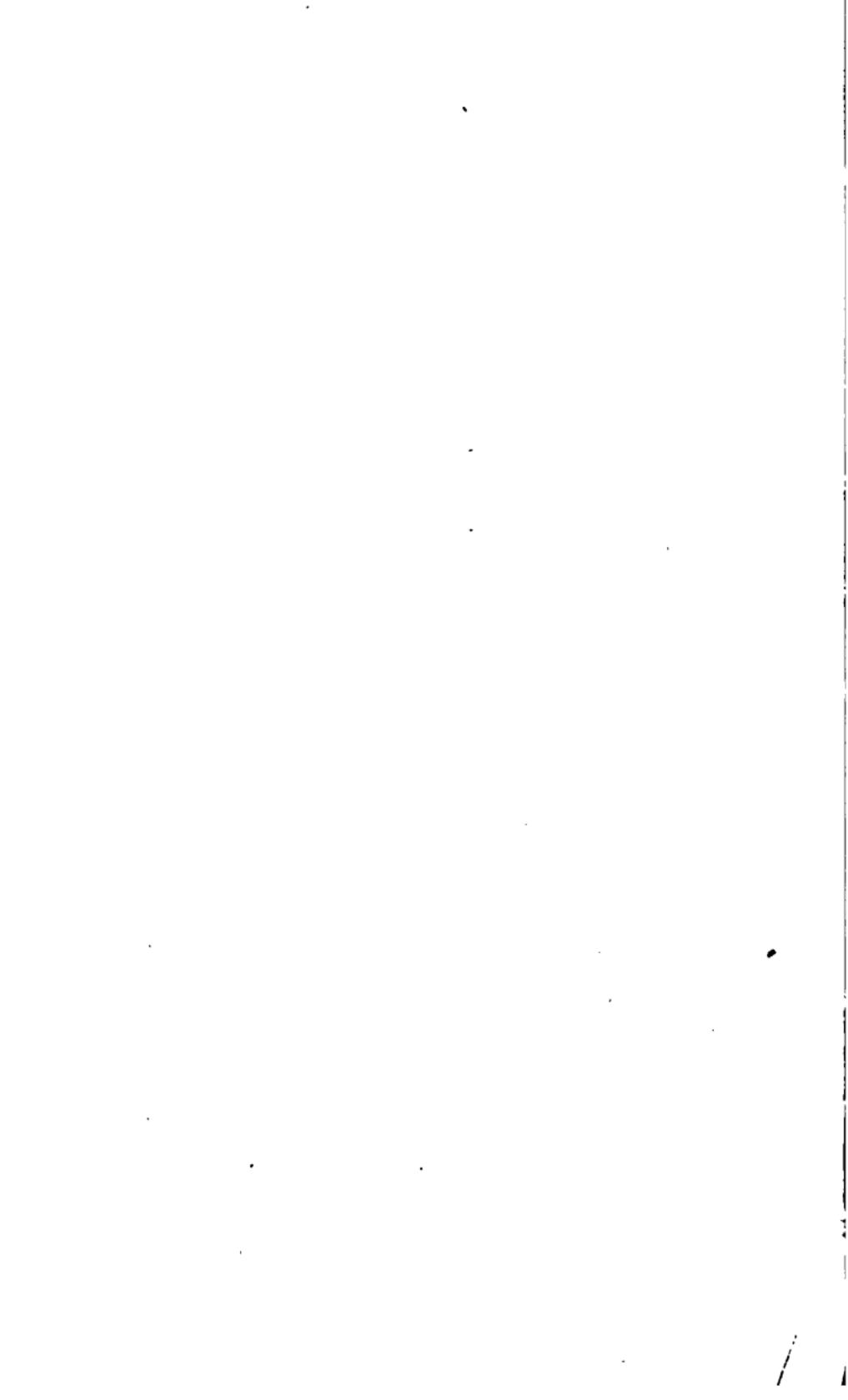
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MEMOIRS OF SIR SAMUEL ROMILLY.

DIARY OF HIS PARLIAMENTARY LIFE, FROM ITS COMMENCEMENT IN 1806 TO ITS TERMINATION IN 1818.

1806.

February 8th. I this day received information from Mr. Fox that I was appointed to the office of Solicitor-General.

This is the commencement of my public life. May I (though it is more than I dare expect or hardly hope for) be as happy in it as I have hitherto been in privacy and obscurity! I have determined to keep a journal of all those transactions of my life which can be of any importance to the public or to myself. I may hereafter probably find it very useful to ascertain past events with more accuracy than a memory so defective as mine could enable me to do; and in recording every day the acts of my life I shall be compelled to reflect on them, and on the motives by which I have been actuated, and, as it were, to pass a judgment on my conduct before it is too late for any self-confession to be of use.

My appointment has not only been unsolicited, but it has been made without connexion with either Lord Grenville or Mr. Fox, by whom the administration has been formed. I owe it principally, I believe, to the Prince of Wales. After the King had sent for Lord Grenville, and had directed him to form a new administration, Colonel M'Mahon called on me, and informed me that he had the Prince's commands to say to me that he had told both

Lord Grenville and Mr. Fox that it was his particular wish that I should hold some office in the administration that was to be formed. I have certainly never paid my court in any way to the Prince. His Royal Highness was kind enough, not many months ago, to offer me a seat in Parliament, which I very respectfully, but very decidedly, declined.

Although the new administration has been formed in general of the public men of the greatest talents and highest character of any in the country, yet there are some few appointments which have been received by the public with much dissatisfaction, and none with more

Erskine than that of Erskine to be Lord Chancellor.

Lord Chancellor. The truth undoubtedly is, that he is totally unfit for the situation. His practice has never

led him into courts of equity; and the doctrines which prevail in them are to him almost like the law of a foreign country. It is true that he has a great deal of quickness, and is capable of much application; but, at his time of life, with the continual occupations which the duties of his office will give him, and the immense arrear of business left him by his tardy and doubting predecessor,¹ it is quite impossible that he should find the means of making himself master of that extensive and complicated system of law which he will have to administer. He acts, indeed, very ingenuously on the subject; he feels his unfitness for his office, and seems almost overcome with the idea of the difficulties which he foresees that he will have to encounter. He called on me a few days ago, and told me that he should stand in great need of my assistance, that I must tell him what to read, and how best to fit himself for his situation. "You must,"—these are the very words he used to me,—"you must make me a Chancellor now, that I may afterwards make you one."*

* Before the Great Seal was given to Erskine, it had been offered to each of the two Chief Justices. Mansfield declined it on account of his age; and Lord Ellenborough because his office is

¹ Lord Eldon.—ED.

10th. Piggott told me to-day that Mr. Fox had desired him to say that the administration would bring us both into Parliament without any expense on our parts. I cannot have any scruple about so coming into Parliament. Not having the least hesitation at accepting the office of Solicitor-General under the present ministry, I cannot hesitate at accepting a seat in Parliament from them. If I had come in as a private individual, I would not have accepted a seat from anybody. But as long as I hold the office to which I have been appointed I must support the administration. As soon as they appear to me unworthy to be supported it will be my duty to resign.

12th. I was this day sworn in, together with Piggott, the new Attorney-General, and we attended the levee at the Queen's House, and kissed the King's hand on our appointment. His Majesty was pleased to knight us both, greatly against our inclination. Never was any city trader, who carried up a loyal address to his Majesty, more anxious to obtain, than we were to escape, this honour. We applied to Lord Dartmouth, the lord in waiting, to Lord Grenville, Lord Spencer, and everybody on whom we thought it might depend, to deprecate the ceremony which awaited us. But the King was inflexible. For the last twenty years of his reign it has pleased his Majesty to knight all attorneys and solicitors general and judges on their appointment, though for the first five and twenty years he had never seen the necessity or propriety of it; and now, every man who arrives at these situations must submit to the humiliation of having inflicted on him that which is called, but is considered neither by himself nor any other person an honour. Perceval, the last Attorney-General, had been permitted to decline knighthood because he was an Earl's son.

March 1st, Sat. At Mr. Fox's desire, I attended a meeting at his house of several members of the House of almost as lucrative and is held for life, and perhaps because, being unaccustomed to courts of equity, he thought himself unfit for the office.

Commons, to consider the question expected to be brought on in the House on the Monday following, on the subject of Lord Ellenborough having a voice in the Cabinet. That there is nothing illegal or unconstitutional in this, seems clear. It is certainly very desirable that a judge should not take any part in politics ; but this is not according to the theory of our Constitution, nor consistent with practice in the best times of our history. The chiefs of all the three courts are always Privy Councillors ; and the Cabinet is only a committee of the Privy Council, and, as a Cabinet, is unknown to the Constitution. In the reign of George II., and in the beginning of the present reign, when Regencies were established by Act of Parliament, in the event of the King's dying while his successor was in his minority, Councils were appointed to assist the Regents ; and those Councils consisted, in each case, of the first officers of the State, such as are commonly Cabinet Ministers, with the addition in each case of the Archbishop of Canterbury and the Chief Justice of the King's Bench ; and in both cases it was the Chief Justice for the time being.* In Queen Anne's reign Lord Justices were appointed, in whom the whole executive government was to remain, till the successor, if at the Queen's death he were out of the realm, should arrive in the kingdom ; and the Chief Justice of the King's Bench was appointed one of the Lord Justices.† The first of these Acts met with great opposition from the Tories of that time ; particular persons were objected to as Lord Justices, and a protest was entered in the House of Lords ; but no objection whatever was made to the Chief Justice being of the number.

21st. I was elected to serve in Parliament for the borough of Queenborough. Mr. Geo. Peter Moore, who had been returned at the last general election, accepted the Chiltern Hundreds at the request of Mr. Fox to make room for me. There was no opposition ; but yet it was expected and considered indispensable that I should be present at

* See the statutes, 24 Geo. II., c. 24 ; 5 Geo. III. c. 27.

† See 4 Anne, c. 8 ; and 6 Anne, c. 7.

*Romilly
elected for
Queen-
borough.*

the election. The borough is very much under the influence of the Ordnance ; but, at the last election, Prinsep and Moore were chosen in opposition to the government, and in defiance of all the exertions of the corporation. Between 140 and 150 voters polled at the election. I found all parties very well disposed towards me ; not only there was no opposition, but apparently I had the cordial support of all the electors. In less than four days after my election, I received applications from two of the electors to procure places for them ; and of these, one, whose name is B——, had tired me, when I was at Queenborough, with long conversations to explain to me the politics of the borough, and to state the grievances of the freemen ; in the course of which he told me twenty times that he was speaking for his brother freemen only, and did not at all consider himself.

24th. I took my seat in the House of Commons, and was, on the same day, appointed one of the *Took his seat.* Committee to manage Lord Melville's trial.

27th. Mr. Whitbread wrote me a letter to desire, on behalf of all the managers, that I would undertake to sum up the evidence on the trial of Lord Melville, which I suppose I cannot, with any propriety, decline.

April 1st, Tu. Attended the Privy Council upon the examination of Mr. Stephens, a lieutenant in the navy, under the statute 33 Hen. VIII. c. 23. He was charged with the murder of three seamen at Bombay, in the year 1801. They had been flogged without any court-martial being held on them ; and the punishment was inflicted with such horrible severity that they all three died in less than twenty-four hours after it was over. Stephens had been present at the punishment, but he acted only in obedience to the orders of his superior officer, Lieutenant Rutherford, who, the Captain being absent, had the command, and who had ordered and presided himself at the execution. A warrant had been issued by the Council to apprehend Rutherford ; but, upon the messenger's arriving at his ship, he threw himself overboard, and was supposed to have been drowned. All the witnesses who established the fact (for there had been several meetings of the

*Cruel pu-
nishment in
the navy.*

Council before this, some of which I had attended) were seamen, who, acting under Rutherford's orders, had joined in inflicting the punishment; the men having been made to run the gauntlet. The witnesses were all in the same situation as Stephens. In strict law they seem to have been all guilty of murder. Under all the circumstances, however, the Council thought it would not be advisable that a commission should issue to try Stephens; and they agreed (subject to what the Chancellor should think, who was unable this day to attend) to report to the King that measures should be taken to discover Rutherford, if he were living; and that Stephens, as well as the seamen, should be required to enter into recognisances to appear and give evidence against Rutherford, if he should be discovered.

In the course of these examinations it appeared that it was not uncommon for officers, of their own authority, and without any court-martial, to inflict very severe punishments; and that they supposed this to be legal. I had some conversation with Mr. Grey¹ (First Lord of the Admiralty) on the subject; and he agreed that measures ought to be taken to prevent this in future. I will take an opportunity of speaking with him again upon it, and upon the enormous severity of punishments inflicted by courts-martial, which surely require to be restrained.

Wilberforce came and sat by me to-day in the House of Commons, and renewed our acquaintance, which *Slave-trade.* has been interrupted (but not by any fault of mine) for I think about nine or ten years. He said that he came with a petition to me; it was, that I would speak in support of the Bill he meant to bring in for the abolition of the slave-trade; as he was sure that my speaking, as I was quite new in the House, would be of great use. I told him that I would do everything in my power to ensure the success of the measure, and that, if I found that my speaking on it could be of any use, I would certainly do so.

3rd. As I sat next to Mr. Grey to-day in the House of Commons, I renewed our conversation on the punishment in use in the *military punishments.*

¹ Now Earl Grey.—ED.

navy. His idea is, that nothing more is necessary than that instructions should be given from the Admiralty prohibiting punishments, or at least severe punishments, inflicted without the sentence of a court-martial; and, as they are already illegal, an Act of Parliament on the subject is certainly not necessary. But it is to be feared that the Admiralty instructions will in time fall into disuse, and that the practice of inflicting these unauthorised punishments will be revived. Mr. Grey thought that any measure which would draw the public attention to the subject was very objectionable. In this I cannot agree with him. In the short conversation we had together, I observed to him that something should be done to mitigate the punishments which were legal and regular, but which were most inhumanly severe. He seemed to agree with me in disapproving them, and the punishments in the army too, which he thought were still more severe; but he seemed to think it dangerous, or at least inexpedient, to interfere with them.

Mr. Windham to-day introduced into the House his plan of military defence. His principal object is to improve the condition of the soldiers, by enlisting them for a stated period, and not for life, and by giving them an increase of pay, and other rewards for long service. But he did not propose any mitigation of the cruel punishments to which they are subject; and, indeed, he observed that a very severe discipline was what he conceived to be necessary. For myself, I have no doubt that the savage and most inhuman punishments, to which soldiers and sailors alone of all British subjects are exposed, have a most fatal influence upon the discipline of the army, and upon the character of the nation.

6th. *Easter Day.* At Mrs. Fisher's, Ealing; stayed there till the 10th.

12th. Lord Henry Petty,¹ the Chancellor of the Exchequer, dined with me. I took occasion to observe to him, in the course of the day, how desirable it was that lotteries should be discontinued. He agreed with

¹ Now Marquis of Lansdowne.—ED.

me, but said that, during the war, he thought it would be hardly possible to go on without them; that, however, they would not be extended, though a plan for that purpose had been in agitation, and had been much pressed on the Ministry. This plan was to put them on nearly the same footing as they are in France, where lotteries are drawn in the provincial towns, as well as at Paris; and, by means of those provincial lotteries, there is a lottery drawing almost without interruption throughout the year. Tierney, he said, was a great friend to this plan; but that it certainly would not be adopted. He observed, too, that lotteries did much less mischief, now that all insurance upon tickets was abolished, than they did formerly. This may be; but they are still attended with most pernicious consequences.

17th. I spoke for the first time in the House of Commons. It was in a committee of the House upon *Law of Evidence*. The Bill to declare that a witness could not by law refuse to answer a question, on the ground that his answer might subject him to a civil suit. The Master of the Rolls, though he had declared himself an enemy to the Bill altogether, proposed a proviso, that it should still be open to a witness to object to answer any question, which, as a defendant to a bill in equity, he could not be compelled to answer; and that the judges should decide on that objection. I thought such a proviso, which proceeded on the supposition that the rules of evidence were to be governed, or which at least left it doubtful whether they might not be to be governed by the doctrines of courts of equity, extremely improper, and I therefore opposed it. The rules of evidence being part of the common law, it was impossible that they could depend on the doctrines of equity, which are all of very modern origin. The Bill had originated in the House of Lords; the Attorney-General had moved the first and second reading of it, and had carried it through the committee without proposing such a proviso. Now, however, that it was re-committed for the purpose of having this proviso moved, he supported the proviso with some earnestness, and at

considerable length. Mr. Fox joined with me in opposing it, and it was rejected without a division.

18th. In the House of Commons, Sergeant Best¹ moved for leave to bring in a Bill to prohibit, under *Liberty of the Press.* severe penalties, the publication in the news- papers of proceedings before justices of the peace, or of applications to the King's Bench for leave to file informations. The ground stated for this measure was the prejudice which was often excited in the minds of the public against persons who were afterwards to be put on their trial, and which in many instances might influence the persons by whom the prisoners were to be tried.

This may be an evil, but it seems unavoidable, unless all such proceedings were to be had in secret. It is an evil which is far outweighed by the advantage of having the proceedings of justices of the peace under the control of public opinion. The proposed measure is at the best a very dangerous restraint upon the liberty of the press.

22nd. Sergeant Best, upon conversing with Mr. Fox and the Attorney-General, and finding that his bill will be opposed, has, as I understand, abandoned it.

23rd. *First day of Term.* Upon the third reading of the Witness Bill, I spoke in support of it. My argument was, that the Bill had for its object to declare *Law of Evidence.* the law, as the majority of the judges had stated it to be, in their opinions lately delivered in the House of Lords, but delivered only in a legislative proceeding, and therefore not considered as of authority to govern future decisions. That if it were doubtful (though it did not appear to me that it was so) whether the Bill did not go beyond the opinions of the judges, yet it had not been disputed by any one that the law, as so declared by the Bill, was the law upon the subject; and even if that could be matter of doubt, yet, if regard were had to the inconveniences arising from the law being such as the minority of the judges had declared it, there could be no doubt that the law ought to be such as the Bill declared it: and that there would be no evil in the Act, though intended to be

¹ Now Lord Wynford.—ED.

merely declaratory, being to some extent enacting. In civil cases, ought a man to be permitted to suppress facts in his knowledge, necessary to establish the just demand of a plaintiff, or to defeat an unjust demand made on a defendant, because, if those facts were disclosed, the witness too may be compelled to do justice to one from whom he withholds it? In criminal cases, shall offenders go with impunity, or an innocent man suffer the punishment of the guilty, rather than a witness be compelled to discover what will enable a third person to recover from him that which he unjustly withholds? But it is said to be very dangerous to expose witnesses to a temptation to commit perjury wantonly or unnecessarily. So to expose them is undoubtedly an evil; but, where their testimony is necessary to the due administration of justice, the exposing them to such a temptation must be regarded as an evil that is unavoidable.

The Bill was carried upon a division of 51 for it, to 18 against it.

Mr. Sheridan, speaking upon quite a different subject,¹ *Sheridan*. took occasion to say that he should oppose Sergeant Best's bill in every stage of it.

29th. On this day the trial of Lord Melville, upon the *Lord Melville's trial.* impeachment of the Commons, commenced in Westminster Hall.

May 10th. As one of the managers of the Commons, I summed up the evidence which had been given in support of the impeachment. I spoke for three hours and twenty minutes; but more than eight days had been occupied in receiving the evidence.*

* The day before I summed up the evidence, I had some conversation on the subject with *Mr. Fox*, in the course of which he told me that he was not acquainted with my manner of speaking, and therefore could not give me advice, except that he advised me not to be afraid of repeating observations which I thought very material; that it was much better that some of my audience should observe that I repeated, than that any of them should not understand me; that he had himself been reproached for repetitions, but he was not convinced that he was wrong.

¹ The charges against Lord Wellesley.—ED.

16th. The Bill for abolishing the Slave-Trade with any foreign colonies, which had passed the House of Commons, was, on this day, read a third time *Slave-trade.* in the House of Lords, and passed. It was opposed, and the House divided upon it: the numbers for the bill were 53¹; against it 18. Of this 18 one-third were the King's sons; the Dukes of York, Clarence, Cumberland, Kent, Sussex, and Cambridge, having all voted against it. The Duke of Gloucester spoke and voted for the Bill.

17th. The proceedings on Lord Melville's trial in Westminster Hall closed on this day, being the 15th day of the trial. *Lord Melville's trial.*

18th. At the Prince's desire I called on Lord Thurlow, at his house at Dulwich, on the subject on which I had before seen him in December in the last year. *Princess of Wales.* I have preserved a memorandum of what passed on the former occasion. The evidence which has since been discovered is not very important. Lord Thurlow desired me to tell the Prince that the information he had received was too important for it to remain in his possession without some steps being taken upon it; that he ought to communicate it to Mr. Fox, and consider with him what was to be done upon it; and that the information had remained already too long in his Royal Highness's possession not proceeded on. In the course of the day I waited on the Prince, and communicated this message to him.

At Lord Thurlow's I met Mr. Forster, the solicitor, who had come at the Prince's request to speak with him respecting Miss Seymour's² cause, which is likely to come on soon in the House of Lords, and about which the Prince is extremely anxious.

Mr. Forster persuaded me to go round by his house at Sydenham on my way home, telling me it was only a mile about. I found it, however, between three and four miles about, which was very inconvenient to me; but I did not repent of having yielded to his persuasion, for, on our

¹ In Hansard, the numbers for the bill are stated to be 43.—ED.

² See vol. i., p. 435.—ED.

way, he told me of a plan which he had formed for shortening the duration and diminishing the expense of proceedings in Chancery. It had been shown to *Practice of the Court of Chancery.* Lord Redesdale, Mr. Madocks, and other persons in great practice at the bar, and had had the benefit of their corrections. Forster gave it to Lord Thurlow when he was Chancellor; who, in his usual way, deferred taking any step upon it, and resigned the Great Seal, leaving the practice as he had found it. Forster has promised to send me a copy of it. As he is a very sensible man, and very well acquainted with the practice, I expect a great deal from it.

He told me too of another project of his, to encourage *Planting Church Lands.* the lessees of church lands to plant and improve them. Lord Eldon adopted it, and last session brought a bill into the House of Lords to carry it into execution, but afterwards abandoned it. He pressed me very much to bring a bill for the purpose into the House of Commons.

23d. I saw Lord Grenville on the subject of the *Princess of Wales.* conduct, and his Lordship desired me to state the most material facts, from the written declarations which have been put into my possession, in order to their being laid before the King. Lord Grenville seemed to think that the birth of the child¹ would render it impossible to avoid making the matter public, and the subject of a Parliamentary proceeding.

24th. I went to Ingram's at Twickenham, and stayed there for the Whitsun holydays till the 28th. I drew up the paper Lord Grenville desired, and sent it to him on Monday the 26th.

The Lord Chancellor read the paper to the King; and his Majesty authorised the Lord Chancellor, Lord Spencer, Lord Grenville, and Lord Ellenborough to inquire into the subject, and to report to him the result of the examinations they should take.

31st. I met the Lord Chancellor, Lord Spencer, Lord Grenville, and Lord Ellenborough, at Lord Grenville's;

¹ See *infra*, p. 14.—ED.

and it was settled that they would proceed the next day upon the examination.

June 1st. Su. We met accordingly; no person being present but the four noblemen mentioned above and myself. Lady Douglas underwent a very long examination. Sir John Douglas was also examined; and the anonymous letters were produced, and were put into my possession.

2d. In the House of Commons, I spoke in support of Mr. Windham's plan for enlisting men for the army for a period of seven years only, and a further term of three years if the first seven shall expire ^{Army enlisting for limited time.} during war, instead of enlisting them for an indefinite period of time, that is, for life. The ground upon which I principally supported it was, that it was repugnant to the principles of our Constitution, that there should exist in it an army composed of an order of men quite distinct from the rest of the community, and who have given up those liberties, which are incompatible with military discipline, never to resume them; that men who enlist for a limited period of time continue citizens, and have before them the prospect of once again enjoying that personal liberty and those privileges; that this not only renders the army less formidable to the liberties of the country, but much more formidable to the enemy to which it is to be opposed. I cited Blackstone, vol. i. pp. 408, 414. I wished to have said something upon the severity of military punishments; but as the other doctrines I had to maintain were, I knew, very unpalatable to many of the persons who heard me, I was afraid of doing harm rather than good.¹

6th. In the evening I attended at Lord Grenville's house, when Cole and Bidgood, two of the Princess's ^{Princess of Wales.} pages, attended and were examined.

7th. I attended at Lord Grenville's from between one and two o'clock in the day till half-past eleven at night. The whole of our time, with a short interval for dinner,

¹ On a division, the question was carried by a majority of 206 to 105; and the Bill was ultimately passed in the House of Commons on the 6th of June following.—ED.

was occupied in examining witnesses. The four Lords of the Council had granted an order to bring before them six of the Princess's most confidential servants* from her house at Blackheath, to be examined. The order was executed without any previous intimation being given to the Princess, or to any of her servants. The Duke of Kent attended, and stated to the Princess that reports very injurious to her reputation had been in circulation; and that his Majesty had therefore ordered an inquiry to be instituted on the subject. The Princess said that they were welcome to examine all her servants, if they thought proper. In addition to the servants, Sophia Austin was examined. The result of the examination was such as left a perfect conviction on my mind, and I believe on the minds of the four Lords, that the boy in question is the son of Sophia Austin; that he was born in Brownlow Street Hospital, on the 11th of July, 1802; and was taken by the Princess into her house on the 15th of November in the same year, and has ever since been under her protection. The evidence of all the servants as to the general conduct of the Princess was very favourable to her Royal Highness; and Lady Douglas's account was contradicted in many very important particulars.

10th. The hearing of the appeal from Lord Eldon's order, appointing Lord Euston and Lord Henry Seymour guardians of the infant, youngest daughter of Lord Hugh Seymour, in opposition to the proposal of Mrs. Fitzherbert to be appointed her guardian, came on to-day in the House of Lords, and I was heard for the appellant.

In the evening of the same day, I had the satisfaction of expressing in the House of Commons my *Slave-trade.* abhorrence of the slave-trade. It was on the motion of Mr. Fox that the House should resolve that it would with all practicable expedition take the most effectual measures for the abolition of the slave-trade, at such time and in such manner as should be found most expedient, or to that effect. I did not attempt to argue the

* Charlotte Sander, Sicard, Stikeman, Roberts, Frances Lloyd, and Mary Wilson.

question whether the slave-trade ought to be abolished. This I considered as long ago decided; and that the trade could now be defended only by already refuted arguments, and disproved assertions. I spoke principally to impress on the House a sense of the reproachful situation in which the country stood with respect to this subject; since it had, now above fifteen years ago, had the courage to inquire minutely into the subject, and had ascertained, by a great body of evidence which stood recorded against the nation, that the trade was carried on by robbery, rapine, and murder; and had yet, with the full conviction of this, persisted in the trade for so long a period of years; and had, since it had ascertained and made public all these facts, dragged from the coasts of Africa by this trade not less than 360,000 human beings. The words "robbery, rapine, and murder," gave great offence to some gentlemen, particularly to General Gascoyne (one of the members for Liverpool), Sir William Young, and George Rose. But, as I should think it criminal to speak of such a trade otherwise than as it really is, I shall probably use the same expressions again when I have next occasion to speak of it. The resolution of the Commons was agreed to by the Lords on the 24th of June.¹

12th. The Peers gave their judgment in the case of Lord Melville, and acquitted him by a great *Lord Melville acquitted.* majority.

14th. I replied in the House of Lords in the appeal respecting the guardianship of Miss Seymour. *Guardianship of Miss Seymour.* The order of the Lord Chancellor was reversed; and Lord and Lady Hertford were by the House appointed the guardians. Several peers voted against this, but there was no division.* I counted between

* This decision was attended, some years afterwards, with consequences of considerable importance. It occasioned a great intimacy between the Prince and Lady Hertford, which ended with her entirely supplanting Mrs. Fitzherbert in the Prince's favour;

¹ The resolution was carried in the House of Commons by a majority of 99; the numbers being for it 114, against it 15. In the House of Lords the numbers were for concurring in the resolution of the Commons 41, against it 20.—ED.

eighty and ninety peers who were present: the Prince, who was as anxious that Mrs. Fitzherbert should continue to have the care of the child as he could have been if the child had been his own, and who knew that Lord and Lady Hertford would not remove her, had earnestly entreated all his friends to attend. I had, on the Prince's account, done everything that depended on me to prevent this; and which was only to represent to Colonel M'Mahon what I thought of such a proceeding. The question was certainly one which involved no legal consideration whatever, and which every peer was as competent to decide as a lawyer could be; but yet to canvass votes for a judicial decision is that which cannot be too strongly reprobated.

19th. *Th.* The House of Lords this day put an end to all the *Mr. Justice* proceedings¹ against Mr. Justice Fox, by adjourning them for two months, when it was known that Parliament would not be sitting. There is no doubt that the mode in which this matter has hitherto been proceeded in is extremely oppressive to the party accused, and to all the witnesses, who have been brought from Ireland during three successive sessions of Parliament without anything being decided, or the prospect (if it is to be proceeded on in the same way) of any thing being decided for many years to come. Not one charge is yet gone through; and when all should be gone through in the House of Lords, the matter would be to be brought before the Commons, that they might concur in an address to the Crown for the judge's removal. But though this proceeding be not proper, some other should be resorted to. It will be most disgraceful to Government, if, after what has been stated at the Bar of the House of Mr. Justice Fox's court and it produced that hostility towards the Catholics, which the Prince manifested when he became Regent, and his determination to place his confidence in those Tory Ministers whom he had always before considered as his personal enemies.

¹ By a majority of 25 to 16. These proceedings originated in several petitions presented to Parliament in May and June, 1804, complaining of the arbitrary and violent conduct of Mr. Justice Fox in the discharge of his judicial duties at the Summer Assizes for the counties of Donegal and Fermanagh, during the preceding year, 1803.—ED.

duct, he is suffered to remain a judge. He ought unquestionably to be impeached.

The proceedings which have taken place respecting the Princess of Wales have, it seems, become public. *Princess of Wales.* Her Royal Highness has thought proper to make them so ; and will, no doubt, in her own justification, endeavour to excite all the public odium she can against the Prince. His conduct towards the Princess on former occasions may have been extremely unjustifiable. Upon this occasion he could not have acted otherwise than he has done ; and if he is to blame, it is for having used too much caution, and delayed too long laying before the Ministers the important facts which had come to his knowledge.

23d. Attended again at Lord Grenville's with the Chancellor, Lord Spencer, and Lord Ellenborough ; and examined two witnesses respecting the conduct of the Princess.

25th. The same to-day.

26th. The cases which are laid before the Attorney-General and myself by the Secretaries of State and the Privy Council are so numerous, and the questions upon them generally so unimportant, that they are not worth noticing here ; but the subject upon which we gave our opinion to-day is so important, and may be attended with such serious consequences, that it may be right to make a memorandum of it. The question was referred to us by Mr. Windham, and was this :—Whether the King could, by order in Council, and without the intervention of Parliament, prohibit the importation of slaves into the island of Trinidad, which was conquered by the British arms in the last war, and ceded to Great Britain at the peace ? The Attorney-General was of opinion that the importation could be prohibited only by Act of Parliament ; I thought differently ; and we wrote separate and contrary opinions. My opinion was founded upon the doctrines laid down in the celebrated case of *Campbell v. Hall*, in Cowper. The King has, as I conceive, authority by proclamation to alter the laws of a conquered country in all cases where the Parliament has not interposed. He cannot, indeed, give

The King's power to legislate for conquered Colonies.

to the country such laws as are repugnant to the principles of the British constitution, or as would be a violation of the law with respect to his other subjects. He cannot, for example, dispense with the Navigation Act or the Laws of Trade, in favour of his subjects inhabiting Trinidad, because that would be a violation of the law as to the rest of his subjects ; but he may make laws for the internal government of the island ; and it appears to me that to prohibit the increase of the number of slaves in the island by importation is clearly matter only of internal legislation.

This is a question of very great importance ; because, after the measures which have already been adopted respecting the slave-trade, there is, as I understand, great repugnance in Ministers to bring any further Bill on the subject into Parliament during the present session, and some doubt entertained whether they could carry such a Bill through. In the mean time, the number of slaves which are imported annually into Trinidad, the horrible mortality that prevails amongst them, and the certainty that (with the prospect which there now is that the slave-trade will, before long, be entirely abolished) the importation for the next year, if it is not prohibited, will greatly exceed what it ever has been, render it most important that the prohibition should very speedily be adopted. I was not able to understand the Attorney-General's difficulty ; but it seemed to arise out of the Laws of Trade, and the Act of 37 Geo. III. c. 77, making the port of San Josef in Trinidad a free port ; and the Consolidating Act, 45 Geo. III. c. 57.

In the House of Commons I this day moved for leave to bring in a Bill to amend the Bankrupt Laws. *Amendment of Bankrupt Laws.* The object of it is merely to prevent the evils which arise from the honest transactions of bankrupts being set aside by secret prior acts of bankruptcy, and from commissions being overturned by secret acts of bankruptcy prior to the petitioning creditor's debt. There are three ways of remedying the evil :—1st, By making the party bankrupt only from the time of the commission being taken out ; and not, as he now is, by

relation back from the time of the first act of bankruptcy committed. The objection to this is, that it would open a great door to fraud, by giving validity to all transfers of the bankrupt's property at a time when it was known that his circumstances were desperate. 2d, By declaring that no commission shall be taken out founded upon any act of bankruptcy which has taken place more than a limited time (six or three months) before the commission is sealed. This is a remedy which Mansfield, the present Chief Justice of the Common Pleas, and Lord Eldon lately thought of applying; and Lord Eldon has declared that he would bring in a Bill for the purpose. But the objection to it is, I think, unanswerable. If the time limited is short, a great many very proper commissions will be prevented; if it is long, the evil will not be remedied, but a great many honest transactions with bankrupts will be set aside. 3d, The only other remedy that occurs to me is that which I have adopted,—to declare that all conveyances, payments, contracts, and dealings with bankrupts shall be valid, notwithstanding prior acts of bankruptcy, if the parties dealing with the bankrupts had not notice of such acts.

It certainly is not from an abundance of leisure that I have undertaken this; for I am obliged every day to refuse to answer cases which are brought to me, because I have not time to answer them.

27th. Attended at Lord Grenville's, at the examination of Mrs. Fitzgerald relative to the *Princess of Wales.*

July 1st. Again at Lord Grenville's on the same business. The Prince had put into my hands several original letters of the Princess to himself, and to the Princess Charlotte. I took them with me; and, upon a comparison of the hands, no one of the four Lords had any doubt that the anonymous letter, the inscriptions upon the obscene drawings, and the directions upon the envelopes in which the drawings were enclosed, were all of the Princess's own handwriting.

3d. There was a meeting again to-day at Lord Grenville's; but, through a neglect of giving me notice, I did not attend it.

*Amendment
of the Bank-
rupt Laws.* The notice which I gave of my intention to bring a Bill into Parliament to amend the Bankrupt Laws (a Bill which, by the bye, I have since brought in, and which has been read a second time), has drawn upon me a most voluminous and numerous correspondence. A day has not passed without my receiving five or six long letters; some signed, some anonymous, but all suggesting some evil in the Bankrupt Law, and proposing a supposed remedy, or leaving it to me to find one out. One man recommends me to abolish the whole system, and substitute a new one in its place; another would make the obtaining certificates more easy; a third would enlarge the description of persons who may be made bankrupts; a fourth would have permanent official assignees; a fifth suggests that my Bill will so much diminish the business and consequently the profits of the Commissioners, that I ought, in justice to them, to propose to increase their fees to twice their present amount. But most of my correspondents tell me very honestly that it is their own particular cases that they have in view. An attorney from Dublin writes to complain that attorneys cannot, as such, be made bankrupts; and from the King's Bench and the Fleet I have sent to me the complaints of bankrupts stating the hardship of their cases, and the oppressions of their creditors, and requesting that a clause may be inserted in the Bill for their relief. Not one of these letters has suggested to me a single idea that can be of any use. Nor is it by letter only that my time is broken in upon. Persons call on me to state their notions of reform; and I never enter into the House of Commons without being importuned by one or other of the Members for the City to provide a remedy for the case of acceptors of bills of exchange, who, at the time of the bankruptcy, have not paid their acceptances. I seem to have become a kind of public property; and, because I would reform evils which most immediately call for reform, to have come under some obligation to make the Bankrupt Laws perfect. And this, too, they would have done in a moment, by some hasty clause to be inserted in the Bill, without any consideration, just as they may crudely suggest. All

this importunity satisfies me that a man cannot, even as to reforms which everybody agrees are proper, do good with perfect impunity.

4th. I flatter myself that I contributed to-day, in a great degree, to prevent a measure which *Lord Wellesley* would, in my opinion, have brought the greatest disgrace upon the House of Commons. Lord Temple moved, pursuant to a notice given some time past, that the charge against Lord Wellesley upon the transactions in Oude should be immediately taken into consideration. Mr. Paul, who had preferred the charge, declared that he was not ready to go upon it; and that there had not yet been a production of all the papers which the House had ordered to be produced, and which appeared to him necessary to support the charge. Lord Wellesley's friends, however, (and there was a very numerous attendance of them,) with Lord Temple at their head, insisted that the charge should be immediately proceeded on; in order, no doubt, that it might be dismissed as unfounded, the accuser not being prepared to make it good. The only ostensible ground upon which this motion could be supported, and upon which it was supported, and by the Master of the Rolls among others, was the unreasonable delay of the accuser. The debate had been protracted till near 11 o'clock, and the House was very clamorous for the question when I rose. I endeavoured, by calling the attention of the House to the dates which had been stated by Paul, and which, not being contradicted, I supposed to have been stated accurately, to show (what was really quite palpable) that there was not the least foundation for imputing delay to him; on the contrary, that he had proceeded with great activity and diligence; and that it was not through any fault of his that he was not prepared at that moment to maintain his charge; and I endeavoured to impress the House with the reflection how deeply their own honour was concerned, and how important it was not to give countenance to any notion which might have gone abroad, that, where a man who had filled high public offices was accused, the same principles of justice and the same rules of proceeding were not adhered to as in the case of

an obscure individual. When I concluded, there was no call for the question; little was said afterwards in the debate; and Lord Temple, after consulting with Sir Arthur Wellesley and Mr. Wellesley Pole, desired to withdraw his motion, but said that he should renew it on that day se'nnight.

Two or three days after this, Lord Wellesley's friends said in the House, that nothing could be farther from his wish than to have the discussion prematurely gone into, and that they should therefore acquiesce in its standing over till next Session.

12th. Attended at Lord Grenville's, when his lordship *Princess of Wales.* read the draft of the report¹ of the four commissioners for inquiring into the conduct of the Princess of Wales which he proposes to make. Some few verbal alterations were made upon the suggestion of each of the Lords present, the Chancellor, Lord Spencer, and Lord Ellenborough, and one or two at my suggestion. It states the opinion of the commissioners, that there is no foundation for either of the assertions, that the Princess was delivered of a child in 1802, or that she was pregnant in that year; but that the conduct sworn to have been observed by the Princess towards Capt. Manby is of a kind that deserves the most serious consideration.

22nd. Lord Redesdale had a very strong inclination *Amendment of the Bankrupt Laws.* to oppose, in the House of Lords, my Bill for the amendment of the Bankrupt Law. He stated his objections to me (not indeed till I had asked him for them), but I could not feel the force of any of them. He stated them to Lord Ellenborough, to the Chancellor, and to Lord Eldon; but he could not find anybody disposed to oppose the Bill, or to agree with him in thinking that the measure ought to be postponed for further consideration. At last he contented himself with moving, as an amendment to the Bill, a proviso, that the sealing a commission, or striking a docket for a commission, should be deemed notice to all the world of an act of bankruptcy, if any prior act should have been com-

¹ This report is printed at p. 1117 of Vol. XXIV. of Hansard's Parliamentary Debates.—ED.

mitted. As far as relates to striking a docket, which is never matter of public notoriety, this appears to me to be objectionable; but I did not think it of sufficient importance to resist it, and I hope that little harm will be done by it.* With the exception of Lord Redesdale's moving this amendment, no word of objection or observation was made in either House in the course of the Bill passing through Parliament. It received the royal assent to-day.†

23rd. This day Parliament was prorogued. Since I have had a seat in it very little has passed that was either very instructive or very amusing. Some admirable speeches, indeed, of Fox's; but the great powers of his mind are not called forth by the puny antagonists he has now to contend with, as I once remember them; and for the last month ill health has wholly prevented his attendance. The Opposition has objected to everything which has been proposed by the Ministry, except the property-tax, which was originally a measure of their own party; but, as they do not act upon any great public principles, they are obliged to take very narrow ground. They affect an extraordinary anxiety for the King's prerogative, which nobody has thought of invading; they scrutinize minutely all the details of the bills brought into Parliament, to find some inconsistency or inaccuracy in their most unimportant provisions. They endeavour to render the Ministers unpopular by exciting jealousy among the volunteers; they revive, for this purpose, expressions used by Windham three years ago; and they misconstrue or misstate everything that he says or that he has said. Upon every measure they talk of the opinions and the plans of Mr. Pitt; or, in their language, the great statesman whose death the nation finds every day more reason to deplore. There is nothing very formidable in all this; and it surely is not very encouraging to a party to have no leader but one who is dead, and to be driven to sup-

* It was afterwards repealed, at my suggestion, by 49 Geo. III. c. 121—6.

† Stat. 46 Geo. III. c. 135.

port their feeble pretensions to power upon the remains of that leader's reputation.

Aug. 23rd. I set out for Durham, to hold the court there, as Chancellor of the County Palatine. As the Attorney-General intends staying all the autumn in London or its neighbourhood, and as one of us may very well be absent during the vacation, I think of going farther north; perhaps into Scotland, and even as far as the Highlands. To have a perfect relaxation from business, to breathe the pure air of the country, and to enjoy the society of my dear Anne quite undisturbed, are my only objects. Of course she accompanies me; and as my eldest son is now arrived at an age at which, though he can profit but little by travelling, he may suffer very materially by being left at home under the care and in the society of none but servants, he must be of our party.

28th. Held the court at Durham. The business very *Fees in the* *inconsiderable.* The Deputy-Registrar and *Court of* *Examiner of the Court* ascribe the small number *of causes in it to the fees of the* solicitors (as they have been long established) being much lower than those allowed in the Court of Chancery of England; so much lower, that it is far more profitable to a solicitor to institute a suit in London, and pay an agent there for doing the business of it, than to file the bill at Durham and transact all the business himself; and, as it depends on solicitors where the bills of their clients should be filed, almost all are filed in London. There is no reason why the fees should not be the same here as in the English Chancery, where they certainly are not too high.* In many cases it would be extremely beneficial to the inhabitants of Durham to have their suits instituted and decided in their own city,† instead of having them sent, at great expense and with much delay, to

* The expense of Chancery proceedings is most oppressive; but this is to be ascribed to stamp-duties, and to other causes than the amount of the solicitors' fees. The fees were increased by Lord Erskine soon after this was written.

† I speak of causes that may be considered almost as amicable. The jurisdiction is too confined for adverse suits.

London. I think, therefore, of raising the solicitors' fees to the same rate as in the English Chancery. This, however, will require a good deal of consideration.

31st. I arrived at Edinburgh, and remained there till the 8th of September, when I set out for Stirling in my way to the Highlands.

During my stay at Edinburgh, Clerk, the Solicitor-General for Scotland, with whom I have been long acquainted, showed me the sketch which he has made of a Bill for carrying into execution the resolutions come to by the House of Lords in the last Session, respecting the administration of justice in Scotland; and we had a good deal of conversation on the subject. The objects of the plan, which relates only to civil cases, are two: 1st, to take from the Judges of the Court of Session the decision of all questions of fact, and give it to juries, or rather *restore* it to juries; for in Scotland, before the fifteenth century, a jury decided all disputed facts in civil causes as well as upon criminal trials. And 2ndly, to diminish the number of appeals to the House of Lords, by erecting an intermediate Court of Appeal, and not permitting an Appeal to the Lords till after the final decision of the cause in the inferior court. These objects are extremely important, particularly the first of them; and, if it is accomplished in Scotland, it may lead to a very great improvement in English jurisprudence, by establishing the trial by jury for all disputed facts in our Ecclesiastical Courts.

The projected reform will, however, be attended with considerable difficulties. The principal of these, as far as relates to the introduction of juries in civil cases in Scotland, will be how to model the forms of the procedure so as to ascertain with precision what are the disputed facts, and to reduce them to plain questions for juries to decide. I suggested to Clerk (and he seems, I think, inclined to adopt my suggestion) that, amongst other regulations which must be established to execute his plan, it would be very desirable to abolish altogether the oath of reference, which still exists in the Scotch law; and, in lieu of it, to give each litigant party power to examine his anti-

gonist upon oath *vivid voce*, just like any other witness before the jury. If this novelty should be successfully introduced into Scotland, it may lead to the adoption of it in England, and may enable us to substitute that more effectual mode of obtaining a discovery from an adverse party, in the place of our expensive and ineffectual bills of discovery. With respect to the Court of Appeal, various plans, it seems, have been suggested. It is intended that the Court of Session, which consists of fifteen Judges, shall be divided into three chambers, each consisting of five Judges; and that every pursuer or plaintiff shall be at liberty to institute his suit in whichever chamber he pleases. Each chamber will in truth be a distinct court; but, instead of describing them as such, they are to be called Chambers or Sessions of the Court of Session, that there may not appear to be any violation of that article* of the Act of Union which declared that the Court of Session should remain in all time coming as it was constituted before the Union. From the decision of the chamber in which the action is brought an appeal is in all cases to lie to an intermediate court, before the dissatisfied party can be allowed to carry the cause to the House of Lords. How that intermediate Court of Appeal shall be constituted is a question which has produced much difference of opinion. It is to consist, according to one project, of the ten Judges of the Court of Session who are not members of the chamber appealed from; and, according to another, of certain commissioners, the Presidents of the different chambers, the Chief Baron of the Exchequer, and some noblemen holding high offices in Scotland, and who would answer in some degree to the extraordinary Lords of Session of former times;—not lawyers, but men of high rank, whose presence would give dignity to the court, and who would keep the ordinary Judges in awe, and prevent that partiality to particular suitors which exists, or is supposed to exist, in the present members of the court, and from which, in a small society, it is probably very difficult for Judges to be wholly exempt.

* Art. 19.

A third proposal is, that the Court of Appeal shall consist only of five persons, the Presidents of the two chambers not appealed from, the Justice Clerk, the Chief Baron, and the senior Lord of Session. To this there seems great objection, arising principally from the particular characters and connexions of the individuals who now fill those offices. The present President of the Court of Session, Justice Clerk, and the Chief Baron, are men so connected together, so swayed by general and local politics, so much disposed to concur in everything and to support each other, that to place the whole administration of civil justice under their control and at their ultimate disposal (as it would necessarily be if they constituted the majority of a Court of Appeal) could not fail greatly to aggravate those very evils which have been found to result from the present judicial system, and which call so loudly for reform. The connexion between the judge and the suitor has for many years, perhaps one might say for ages, been a subject of complaint in Scotland. Justice, we are told, was never better administered there than by the Englishmen whom Cromwell, during his usurpation, appointed to be judges; and it is said that, when this remark was once made before an old Scotch judge, he observed that there was no great merit in their deciding impartially, for they were a kinless pack. The best Court of Appeal seems, without all doubt, to be that of the ten Lords of Session not members of the chamber appealed from. I find, however, that thoughts are entertained of making some addition to it; which, however the parties concerned may disguise the matter from themselves, is not, I fear, suggested by the most disinterested motives. The Lord Chancellor of Scotland, when that office existed, was President of the Court of Session. It has been intimated that it might be expedient to revive that office, but not to give the Chancellor any other judicial function than that of presiding over the Court of Appeal, which should consist only of himself and the ten Lords of Session. The expense of this scheme, and the increase of ministerial patronage which would attend it, are alone considerable objections to it. But there is another, and,

as it seems, a still more weighty objection to it. The business of the courts in Scotland is confined to so few persons, that, if judges were chosen, not as we have seen them, but most conscientiously, and with the most scrupulous regard to their fitness for the situation, it may well be doubted whether it would be possible to find at any one time fifteen men qualified by their learning, talents, and experience, for the judicial office. Where the persons qualified are so few, and the offices so numerous, to institute a new magistracy, and to make it so pre-eminent in rank, dignity, and emolument, that it must necessarily be considered as the first reward of the profession, what is it but greatly to increase the evil, and to make it matter of necessity that the most important judicial offices should be filled by men quite incapable of executing the duties of them? But, besides this, the services that a Lord Chancellor of Scotland could render the public, if, as is proposed, he were merely to preside in the Court of Appeal, must be inconsiderable. Appeals, in all probability, would not be frequent, and the revival of this high office would only afford the means of intercepting, in his way to the bench, a man who would be a very meritorious and valuable judge, to make him almost a useless but a highly-honoured and a well-rewarded Chancellor. It is obvious, however, that, if there were now to be a Lord Chancellor for Scotland, Henry Erskine, the present Lord Advocate, would be appointed to that office; and he is, with reason, most listened to by Lord Grenville and the rest of the ministry, on the subject of the proposed reform.

Sept. 21st. It was at Fort Augustus that I received the *Mr. Fox's* intelligence of Mr. Fox's death, which happened on the 13th. How unfortunate that, so soon after the country had recovered from its delusion respecting him, and was availing itself of his great talents, those talents should be extinguished!

Oct. 1st. I determined to return to London some weeks earlier than I had originally intended, that I might attend Mr. Fox's funeral.

9th. I arrived in London.

10th. Mr. Fox's funeral. I attended it as one of the

mourners. Nothing could be more solemn and affecting. It was very numerously attended; and most *Mr. Fox's* of the persons present seemed as if they had *funeral*. lost a most intimate and a most affectionate friend.

24th. Parliament dissolved.

Parliament dissolved.

29th. I was re-elected for the borough of Queenborough; William Frankland, recently *Election at Queenborough.* made a Lord of the Admiralty, was elected with me. There was not any opposition; Alderman Prinsep, who had sat for the borough in the last Parliament, having now given up all his pretensions to it.

Nov. 27th. I received from Lord Grenville a copy of the letter which the Princess of Wales has addressed to the King, as an answer to the Report of the four Lords of the Privy Council, and a justification of her conduct. Instead of the dignified defence of an injured and calumniated Princess, it is a long, elaborate, and artificial pleading of an advocate; and no person as much accustomed as I am to Plumer's manner can doubt that he is the author of it.* As a pleading, however, it is conducted with great art and ability. It is manifestly intended to be at some time or other published,† and is likely, when published, to make a strong impression in favour of the Princess. The most remarkable circumstance in it is, that the Princess, instead of demanding that a further investigation of her

* I have been since informed, in a manner that leaves me no doubt, that, though Plumer has altered and corrected it, it is drawn up by Perceval.

† It has since come to my knowledge that this letter was printed under the superintendence of Perceval, with a view to its publication. The change of administration, however, rendered the publication unnecessary to the men whose object it was to make the transactions the means of bringing odium on their political opponents. The pamphlet was therefore suppressed. Some copies of it, however, surreptitiously got into the hands of different persons; and the editor of a Sunday newspaper having given notice, in very mysterious terms, that he should publish it, he was prevented only by an injunction of the Court of Chancery, granted on the 11th of March, 1808, upon a private hearing by Lord Eldon, in his room at Lincoln's Inn Hall. The name of the cause was the *Attorney-General v. Blagden.*

conduct should take place, and that she should have an opportunity of proving her innocence and confounding her enemies, earnestly deprecates any further inquiry. It is true, however, that she speaks of an inquiry by the same Lords, and conducted in the same manner as that which has been already prosecuted ; and she leaves the matter as if it had never occurred to her Royal Highness or her advisers that there might be an inquiry before the Privy Council, to which she might be a party. Lord Grenville desired me to put down in writing the observations which occurred to me in reading this letter ; this I have done, and have transmitted them to him. Dec. 6.

Dec. —. A proceeding which has recently taken place in the Court of Chancery so strongly characterizes the Chancellor that it may be worth remembering. A bill was filed some time ago by a lady of the name of Purcell, against John M'Namara, to set aside several deeds conveying to him a moiety, which she was entitled to, of a very valuable estate in the island of Tortola, as having been obtained from her by advantage taken of her ignorance, and an abuse of the confidence which she had reposed in him. The cause was heard by Lord Eldon when Chancellor, and he decreed that all the deeds should be delivered up by M'Namara to be cancelled, and that he should pay the costs of the suit. As soon as the present Chancellor succeeded to the great seal, M'Namara petitioned to have the cause reheard. It seems that he had in early life been an acquaintance of the Chancellor's ; and he had the folly to boast that he should certainly obtain a reversal of the decree, and to invite his friends to come and witness his triumph. The Chancellor, not choosing to trust himself with the sole decision of the cause, or thinking that there might be considerable difficulty in the case, desired the Master of the Rolls to assist him upon the rehearing. During the first two or three days of the cause being reheard, the Chancellor, with great rashness, expressed a very strong opinion that the decree could not be supported. The Master of the Rolls, after his usual manner, remained perfectly silent. In truth, the Lord Chancellor

Cause of Purcell v. M'Namara in the Court of Chancery.

did not, at the time he so discovered his opinion, at all understand the cause; nor had he then heard of some of the most important facts in it; for M'Namara's counsel began, and, as might be supposed, did not open a very strong case against their own client.

When he had heard the counsel for Miss Purcell, and had talked with the Master of the Rolls upon the case, he became sensible that it was impossible to reverse, or even to alter, the decree. In truth, it was a very gross case, in which M'Namara, under pretence of rendering service to the plaintiff, her brother, and her sister, had obtained from them a conveyance of everything they were possessed of; and had reduced them to subsist upon small annuities received from himself, and for which he compelled the plaintiff to sign receipts acknowledging that she had no right to her annuity, but owed it to his generosity and charity. The decree was affirmed. The day after this judgment was pronounced, M'Namara caused to be inserted in two of the daily newspapers a long article which professed to be an account of the cause, but which was in reality a misrepresentation of the facts, the arguments of counsel, and the judgment of the court, calculated throughout to disguise the case from the public, to exculpate M'Namara, and to represent Miss Purcell in the most odious light. The most important circumstances were entirely suppressed; and with respect to one very important deed, which M'Namara himself, by his answer, admitted had been extorted from the plaintiff by reproaches of ingratitude, and a threat to withhold from her all means of subsistence, it was stated to have been executed by her voluntarily, and with the warmest expressions of gratitude. The cause was represented as having originated in a shameful conspiracy between the plaintiff, her attorney, and a discarded steward of the defendant, to destroy his character; and the Court was stated to have decided the cause upon a strict rule established in Courts of Equity, that a trustee cannot take a conveyance from the party for whom he is a trustee, and not upon the particular circumstances attending the transaction, which were represented to be highly honourable to M'Namara; and the judgment,

as reported, was a laboured panegyric on his virtues. So scandalous an attempt on the part of M'Namara* to impose on the public, to convert the proceedings of a Court of Justice into a vehicle of calumny, and to draw down the infamy which belonged to himself upon the heads of his victims, called for the severest animadversion ; and, as counsel for Miss Purcell, I moved the Court, that M'Namara, and the person whom he had employed and paid to draw up the account, should be committed for a contempt of the Court.¹ The fact of their being the authors of the publication was clearly proved. I stated that I did not dispute the right that all persons had to publish the proceedings of courts of justice : that I was sensible that it was highly important to the public that that right should be exercised, and that it was the best security we had for the pure and impartial administration of justice : that, even when such publications were grossly inaccurate, if the inaccuracy proceeded merely from mistake or negligence, however injurious they might be to private individuals, they would not be a proper subject of punishment : but that the case was very different when the account was published by one of the parties with the manifest intent to vilify his opponents. I represented to him, in the strongest way that I could, the hard situation in which the suitors, witnesses, and solicitors in his Court must be placed, if he would not protect them against such libels. I pressed him to consider how much the preservation of the liberty of the press depended upon not suffering such an abuse of it to pass unpunished. I represented to him how much the offence was aggravated by the condition of the parties, who did not now even pretend that the account published was meant to be accurate ; who attempted no apology, ex-

* M'Namara, who had been concerned in the course of his life in several duels, had vainly attempted during the hearing of the cause to intimidate Miss Purcell's counsel from doing their duty. Some years afterwards, having recovered from a very dangerous illness, he wrote a letter to a friend of mine, in which, after telling him how near dying he had been, he added, "but I was prepared to meet the event like a man of honour."

¹ See note, *infra*, p. 33.—ED.

pressed no contrition, offered no atonement ; but, already anticipating, as it were, their triumph over the Court, contended that they had done no more than they had a right to do, and pretty clearly intimated that they were ready to misrepresent the future proceedings of the Court, just as they had misrepresented the past. I called upon him to assert the honour of his situation ; and I ventured to tell him that, although he would probably be disposed to disregard an indignity offered to himself, he should consider how much others, how much all his Majesty's subjects, were interested in his maintaining the respect due to the High Court in which he presided. I added, however, that I knew it could not be necessary to enlarge on this topic ; or to remind him of the importance and dignity of an office which had for ages been acquiring increased lustre, from the talents and virtues of the great men who had filled it, from the time of Lord Bacon to that of his immediate predecessor ; and that there could be no doubt that as his office had become more honourable and dignified, in passing through the hands of the Somers, the Talbots, the Hardwickes, the Camdens, and his other illustrious predecessors, so it would be transmitted by him undiminished in splendour and dignity to his successor.* It was in my reply that I said this ; and when I had concluded, the Chancellor immediately delivered his opinion. The Court was extremely crowded, for a good deal of interest and curiosity had been excited to see how he would conduct himself. He said that there could not be any doubt of the authority of the Court to commit in such a case ; that the fact of M'Namara being the publisher was

* I did not act on this occasion spontaneously, but as the counsel, and in conformity to the instructions, of my client, Miss Purcell. I, however, pressed the matter very earnestly ; and, at the time, I sincerely thought that the Lord Chancellor ought to have committed the offending parties. Having since had occasion to consider the subject of contempt of Court much more fully than I had then done, I greatly doubt whether I was right in that opinion ; and whether, gross and flagrant as the misrepresentation of the proceedings of the Court in this case was, it ought not to have been left to be prosecuted as a libel.¹

¹ See *infra* Apr. 5, 1810.—ED.

clearly established ; that the article was a gross mis-statement of the proceedings of the Court, and was manifestly printed for the purpose of exculpating the defendant in the public opinion, and of rendering odious his opponents ; and that what he had said in delivering his judgment was shamefully misrepresented. After dilating on these topics at considerable length, and raising an universal expectation of the only decision which it was supposed possible could follow such a speech, he added, that, though this was certainly a case in which the Court might commit the offenders as for a contempt, it still remained to be considered whether, in the exercise of the discretion which the Court must necessarily have in such a case, it ought to do so ; and that, exercising that discretion, he should certainly not commit them.

Foreseeing that the Chancellor might be afraid upon such an occasion to act on his own authority, I had, in the course of my reply, suggested that possibly, in so flagrant a case as this, it might be most expedient for the Court to direct that all the papers should be laid before the Attorney-General, for him to consider whether he would file an information against the offenders. The Chancellor, after declaring that he would not commit the parties, said he should take time to consider whether he would order that the papers should be laid before the Attorney-General. The next morning, however, he sent for the solicitor of Miss Purcell to his house, and told him that he thought that enough had been done in bringing the complaint before the Court, and that it was his wish that the matter should not be pressed any further : that if it were pressed, he should determine as to the Attorney-General being applied to ; but that he was desirous of not deciding it, and he added, that till he had heard my reply, he had made up his mind to do nothing upon the complaint. The solicitor, with a very proper degree of firmness, said that he could not abandon the complaint, but that his Lordship must do with it whatever he thought proper. This conduct of the Chancellor, to a person not well acquainted with his character, must seem incomprehensible. For myself, I have no doubt that it has not proceeded from re-

gard to M'Namara, but merely from the fear of losing or endangering that vulgar popularity which he values a great deal too highly.

The Chancellor was so sensible of the loss of reputation which he has sustained by this, that about ten days after, upon a complaint against a man and his wife for a publication relative to the proceedings of the Court in a lunacy,* he immediately committed them and their printer to the Fleet, although the case was much less flagrant than that of M'Namara.

Dec. 15th. The new Parliament met; Abbot ^{Meeting of Parliament.} chosen Speaker.

19th. The Session of Parliament opened by the speech delivered by the commissioners in the King's name.

1807.

January 7th. A debate in the House of Commons on the late negotiation for peace.

10th. I have been thinking, for some time past, of bringing into Parliament a Bill to make the freehold estates of persons who die indebted assets for the payment of their simple contract debts. The law, as far as it affords satisfaction to a creditor out of the property of his debtor, requires great amendment. There seems no reason why the *whole* of a debtor's real estate should not be *extended* in his life time, instead of a *half*, according to the present law of executions: nay, why the estate, or a sufficient part of it, should not be sold, instead of the creditor receiving the profits only till his debt is paid; nor why money in the funds, and debts due to the debtor, should not be made applicable by compulsory process to the payment of his debts; nor why copyhold estates should not be liable to judgments and executions, and be assets after the debtor's death. It should seem that it would be right even to make the estate tail of a debtor assets to pay his debts. As he has the power to acquire the absolute dominion

*Real estates
to be made as-
sets to pay
simple con-
tract debts.*

* See *ex parte* Jones, 13 Ves.

over the property, and to charge it with his debts, it seems very reasonable to proceed as if he had done what he could, and as an honest man ought to have done, to satisfy his creditors. These are objects, however, which cannot be accomplished hastily; and to attempt them all at once would make it impossible, with the dread of innovation which prevails at present, to succeed in any of them. I have determined, therefore, to attempt only to make the freehold estates of debtors, after their deaths, applicable to the payment of their debts. No rational opposition can be made to this. Lord Ellenborough, however, to whom I have mentioned my intention, and who highly approves of it, tells me that I shall meet with great opposition, particularly from country gentlemen and men of landed property, who will be alarmed at the idea of subjecting real property to any charges from which it is now exempt.

I thought it proper, therefore, before I proposed a measure which may be made by Opposition a subject of clamour, to speak to Lord Grenville about it. I accordingly called on him to-day; and he said that he saw no *Welsh Judges.* objection to the measure. He then told me that he wished me very much to consider what had been suggested by the select committee of the House of Commons in 1799, respecting the consolidating the four Welsh circuits into one, and appointing a greater number of judges of the Courts in Westminster Hall.* He said that the circumstance which had induced him to turn his attention to this subject was, that the present vacant office of Welsh judge had been offered to three different gentlemen, all of them properly qualified to discharge its duties, who had all declined it; the salary being so inconsiderable as to make it by no means expedient for them to give up the business which would be incompatible with their holding the office: that, as no man fit for the office would accept it in its present state, there was nothing to be done but either to increase the salary, which under the present

* Twenty-seventh Report of the Committee of Finance, &c. Vide Burke's Speech on his Plan of Reform in 1780, p. 31 and 32.

circumstances of the country ought to be avoided if possible, or to adopt some such plan as was suggested by the committee: that it might be thought an object to preserve the patronage of so many offices, but in his opinion that ought not to have any weight in a matter of so much importance to the public.

He then talked to me on the subject of a General Register of Deeds throughout England. He had before directed a number of papers on that subject to be laid before the Attorney-General and me. I stated to his Lordship the difficulties which it appeared to me that the subject presented. A register on the plan of those in Middlesex and Yorkshire * seems to be of little use. The substance of the deed does not appear in the Register; or any thing more than the date, the parties' names, the description of the lands, and the names and places of abode of the witnesses. The memorial, too, must be executed by one of the parties to the deed, and attested by one of the subscribing witnesses to the deed, which is attended with much inconvenience, makes it often impossible, after a distance of time, to register deeds, and has no utility. What is most important is, that the object and substance of the deed should appear on the register; but to effect this, is extremely difficult. To insert a transcript of the whole deed, considering the shameful length to which conveyances are drawn out by the persons who prepare them, would be attended with enormous expense; and yet a mere abstract of the deed may, quite unintentionally, be extremely inaccurate; and if an inaccurate abstract were made necessary to a valid registration of a deed, a most abundant source of litigation would be opened between different incumbrancers, who would contend for priorities, on the ground that deeds were to be postponed as not having been properly registered. I stated to Lord Grenville that I had not been able to suggest any mode of removing this difficulty. He said that it might be the duty of the officer to make the abstract, and all that should be required of the parties to entitle them to the benefit of their

* Stat. 7 Anne, c. 20; 2 Anne, c. 4; 6 Anne, c. 35; and 8 Geo. II. c. 6.

deeds against subsequent conveyances, should be to produce their deeds to be registered. The objection to this seems to be, that it would occupy many persons in the office to abstract all deeds which were brought to be registered, and it would be attended with great expense, and probably would be very carelessly done. Lord Grenville asked me if I knew any person who might be advantageously consulted on the subject, which gave me an opportunity of mentioning John Bell; and he desired that I would request the solicitor of the Treasury to lay all the papers before Mr. Bell, to consider what plan would be most likely to attain the object. I consider it as no inconsiderable service that I have rendered the public, when I have introduced a man of such knowledge, talents, and zeal for the public good as Bell, to be employed on such occasions.

28th. I moved, in the House of Commons, for leave *Bill to make freehold estates assets to pay simple contract debts.* The motion was agreed to, and appeared to be *assets to pay simple contract debts.* very well received by the House.

I had before sent a copy of the Bill to Lord Ellenborough; and I, last night, received a note from him in which he says, "I cannot help thinking that the simple contract creditor should have his remedy by action against the heir and devisee, as well as the specialty creditor;" (for, as I have drawn the Bill, freehold estates are to be assets for simple contract debts, to be administered only in Courts of Equity.) He adds in his note, "As so very great a change in the law will be effected by the proposed Bill, if it should pass, I think the judges should have an opportunity of considering it before it is introduced into

Judges how far to be consulted before alterations are proposed in the law. Parliament. If the Bill commenced in the Lords, as Bills of this nature used formerly to do, it would, I believe, be referred to the judges in the first instance,* as a matter of course, to report their opinion thereupon; and though the proposed Bill originates in the Commons, where

* See upon the subject a curious passage in a tract of Lord Hale's on the amendment of the laws, published in Hargrave's *Law Tracts*, p. [273.]

no such reference can be made, it would still be expedient to obtain their opinion individually respecting the alteration meant to be effected, and to leave the Bill, in that view, for their consideration a reasonable time before it is brought in. In the hurry of Term I have not yet had time to attend to it as I ought. The general principle of subjecting real estates to the demands of simple contract creditors I much approve." I understood from this note that Lord Ellenborough wished me to defer my motion. As I knew, however, that if the measure were much delayed no interest would be taken about it, I determined to persevere; and I wrote Lord Ellenborough an answer, saying that, having given public notice of my intention, I had gone too far to allow of my postponing the motion; and I added, "with respect to consulting the judges individually, before a Bill is brought into the House of Commons, if that be necessary, or even proper, it is very obvious that no person in my situation can with propriety propose any alteration of the law; because, to devote the time which would be necessary for such a communication with the judges would be quite incompatible with his unavoidable occupations, or, I should rather say, with the discharge of the duties of his situation." I had besides (though I did not think it necessary to mention it to Lord Ellenborough) another objection to such a proceeding. It appears to me a most unconstitutional doctrine, that no important alteration can be made in the law, unless the judges are first consulted on it. If they are to be consulted, of course their opinions are to be followed; and consequently, if they or if only a majority of them disapprove of any proposed alteration in the law, it must be abandoned. They would be to be considered like the Lords of Articles formerly in Scotland; or like a fourth member of the Legislature, who are to have something like what has been called the initiative in legislation; a power of preventing any proposed measure not only from passing into a law, but even from being debated and brought under the view of Parliament; and this important power, too, exercised not ostensibly, and as public men, with all the responsibility which belongs to the discharge of any public duty, but with the

indifference and carelessness which necessarily must attend such private communications.

29th. As I find that Lord Redesdale has said to a person who communicated it to me, that he shall oppose the Bill if it gets into the House of Lords, on the single ground that it has not been communicated to the judges before it is proposed to Parliament ; that there may not be a pretext for not discussing the merits of the Bill, I have this morning sent a copy of it to each of the judges. I do not ask them their opinions of it ; I shall probably not hear from any of them upon it ; and, whether they approve or disapprove of it, I shall bring it into the House.

The affair of the Princess of Wales is at last terminated, *The Princess of Wales.* but not very satisfactorily to any party. The King referred the whole matter to the Cabinet ; and he has, by their advice (advice given after long and mature consideration), sent a written message to the Princess, saying that he is satisfied that there is no foundation for the charges of pregnancy and delivery ; but that he sees with serious concern in the depositions of the witnesses, and even in her Royal Highness's own letter to him written by way of defence, evidence of a deportment unbecoming her station, or something to that effect (for, having heard it read but once, I have not been able to recollect the expression). In the message, as originally framed by the Ministry, it was, "His Majesty sees with concern and disapprobation," but the King, with his own hand, struck out the word "disapprobation," and substituted "serious concern."

Feb. 5th. Wed. The question of the second reading of the Bill for the abolition of the slave-trade was carried in the House of Lords by a majority of 64 ; the numbers being for it 100, against it 36. This measure had always been rejected in the House of Lords during the administration of Mr. Pitt, notwithstanding all the zeal he professed on the subject, and the very great personal and ministerial influence which he possessed in that House.

My little girl was last month seized with a very dangerous fever, which lasted twenty-one days. Having read

in Dr. Currie's book of the happy effects produced in many cases by the application of cold water in fevers, I asked Dr. Pitcairn, who attended her, whether it would not be advisable to try it. He said he thought it certainly would ; that it might be of great service, and could do no harm ; but that the prejudice against it in London was so strong, that he never ventured to recommend it. Cold water was accordingly applied to her, and I have no doubt that it saved her life ; the delirium ceased the moment after it had been applied, and all the symptoms of her fever became milder.

18th. The second reading of the Bill to make free-hold estates assets to pay debts came on to-day *Bill to make freehold estates assets.* in the House of Commons. The Master of the Rolls (to whom I had sent a copy of the *Bill* before I moved for leave to bring it in, and to whom I had mentioned my intention before I sent him the copy, and who had never stated any objection to it whatever to me) opposed it, on the ground that there was no pressing necessity for the measure ; that a simple contract creditor not having stipulated that the debt should be paid by the heir of the debtor, there was no reason to give him what he had not contracted for ; and that, as the heir was affected by it, it was unjust to give it to him : that it was contrary to the Statute of Frauds, because it would affect land by means of parole evidence, and without writing ; and on some other grounds of equal solidity. Some other members opposed it, particularly Mr. Canning, who saw in it an attempt to sacrifice the landed to the commercial interest, a dangerous attack made upon the aristocracy, and the beginning of something which might end like the French Revolution. It is not worth while to put down my answer to the Master of the Rolls. Canning spoke after me, and therefore I had no opportunity of answering him. They did not divide the House.

23rd. I had the satisfaction of speaking in the House of Commons upon the second reading of the *Abolition of the Slave-Trade.* Bill to abolish the slave-trade, and of speaking with great success ; at least I was told by a great

many persons that I made a considerable impression on the House. The question was carried by a majority which exceeded the expectations of the most sanguine. The numbers were, 283 for the Bill, and 16 against it.

A case has been lately laid before the Attorney-General and me, by direction of the Lords of the Admiralty, to consider of the expediency of prosecuting for a libel the printer of a weekly newspaper called the *Independent Whig*; which has brought some facts to our knowledge that demand the most serious attention. A sailor of the name of Thomas Wood was tried by a court-martial at Plymouth on the 6th of October last, on a charge of having been concerned in the mutiny and murders which were committed on board the *Hermione*. It was in September, 1797, that the mutiny took place; and the prisoner being only, as was supposed, of the age of twenty-five when he was tried, could not have been more than sixteen when the crime was committed. The fact was proved but by a single witness: that witness, however, who was the master of the *Hermione*, swore positively that the prisoner, who, he said, at that time bore the name of James Hayes, was the very man whom he remembered on board the *Hermione*; and that he saw him taking a very active part in the mutiny. Notwithstanding the positive oath of the witness thus identifying the prisoner, yet, as the witness said that he had never seen the prisoner since, and as the appearance of a man generally changes very considerably in the nine years which elapse between the ages of sixteen and twenty-five, little reliance could be had on such testimony. It was, however, the only evidence in support of the prosecution. But what was wanting in the evidence for the Crown, was supplied by the prisoner's defence. It was delivered in, in writing, and was, in truth, a supplication for mercy rather than a defence. The following passage contains the whole substance of it:—"At the time when the mutiny took place, I was a boy in my fourteenth year. Drove by the torrent of mutiny, I took the oath administered to me on the occasion. The examples of

death which were before my eyes drove me for shelter amongst the mutineers, dreading a similar fate with those that fell, if I sided with or showed the smallest inclination for mercy ;" and then follow entreaties for compassion on his youth, and a declaration that he had not enjoyed an hour's repose of mind since the event took place. The Court found him guilty ; he was sentenced to be hanged ; and on the 17th of October the sentence was executed. In the mean time, his brother and sister, who were in London, heard of his situation, and made application to the Admiralty. They insisted that their brother was innocent ; that he was not even on board the Hermione, but was serving as a boy in the Marlborough, at Portsmouth, at the time the mutiny took place ; they procured a certificate of this fact from the Navy Office, and transmitted it to Plymouth, where it arrived previous to the execution. The guilt of the prisoner, however, appeared so manifest from his own defence, that no regard was paid to the certificate, and the execution took place. This proceeding was animadverted on in the *Independent Whig*, in several successive papers, with very great severity. The members of the court-martial called upon the Lords of the Admiralty to punish the author of these libels ; and in consequence of this, they were laid before us. The Attorney-General suggested, at the consultation, the propriety of making some inquiry into the fact before the prosecution was instituted. We neither of us entertained any doubt of the man's guilt ; but yet the Attorney-General thought that it would be advisable, to be able to remove all possible suspicion upon that point. An inquiry was accordingly set on foot by the solicitor of the Admiralty ; the result of which was, that the man was perfectly innocent, and was at Portsmouth on board the Marlborough when the crime was committed in the Hermione. He had applied to another man to write a defence for him ; and he had read it, thinking it calculated to excite compassion, and more likely to serve him than a mere denial of the fact. The Attorney-General prevented any prosecution of the printer.

March 11th. The question of receiving the report of the Bill for making freehold estates assets to pay simple contract debts, came on to-day in the House of Commons. The Master of the Rolls and Mr. Canning had intimated to me that they meant to oppose it on the third reading only; and no debate was expected in this stage of the Bill. Colonel Eyre, however, the member for Nottinghamshire, there being an extremely thin house, thought proper to oppose the Bill. Amongst other things, he said that my bringing in such a measure might be ascribed to my hereditary love of democracy. A short conversation, rather than a debate, took place: in the course of it, notice having been taken of what Colonel Eyre had said, he made a kind of apology, and expressed himself sorry to have said anything which might hurt my feelings. It became indispensably necessary for me to say something of myself. I very shortly answered the objections made to the Bill; and then said that "it was quite unnecessary for the honourable gentleman to have made the apology which he had done. Nothing that he had said had given me the least pain. I wondered that he had thought it worth while to inquire about the ancestors of a person so obscure as myself; but the information he had received was so erroneous, so little applicable to me, that nothing uttered under such a mistake could cause me a moment's concern; that I had never heard that any persons from whom I was descended had ever concerned themselves much about politics; that all that I knew of them was that, living in affluence under the French monarchy till the Edict of Nantes was revoked, and by a breach of public faith they were no longer permitted to worship God in the way they thought most acceptable to Him, they had preferred giving up the possessions which they had inherited to making a sacrifice of their consciences; and, that they might enjoy religious liberty, had sought the protection of an English monarch, and had left their posterity to trust to their own exertions for their support."

15th. I dined with the Chancellor. He talked with

me a good deal about the misunderstanding which has arisen respecting the Bill depending in the House of Commons, to enable Catholics to serve in the army and navy. It seems ^{Probable change of administration.} that the administration are likely to go out upon it. He tells me that he was himself an enemy to the Bill; but that he agrees entirely with the rest of the Cabinet on the point which is now in difference between the Ministers and the King.

18th.* Lord Howick, in the House of Commons, declared that the Bill would not be proceeded with; and, upon a question being asked, he declared that, though he was still in office, he understood that his Majesty was taking measures for forming a new administration.

The question of the third reading of the Bill to make freehold estates assets, came on to-day in the House of Commons; and, after a pretty ^{Bill to make freehold estates assets.} long debate, was rejected by a majority of 69 to 47. The Ministers gave themselves no trouble to support it; and many persons who sincerely wished well to it, and who had paid me compliments upon it, and thanked me for bringing it in, stayed away, either supposing that the Bill was in no danger, or, though they approved the measure, not thinking it worth while to give themselves much trouble about it. The enemies to the Bill, on the other hand, made a point of attending; and, just before the division was expected, there flocked into the House almost all the most forward members of Opposition, all of them, indeed, except Perceval (the late Attorney-General), who had spoken for the Bill on the second reading, and who now stayed away, occupied probably in assisting to arrange the new administration, in which he is to have a high office. The principal opposer of the Bill was the Master of the Rolls, who, in a long, studied, and elaborate speech, exerted all his powers to throw it out. His arguments were all technical, and such as I could not have conceived could have satisfied himself. He said that justice was in

* Query—Whether the first of these declarations was not made on the 17th, and the second on the 18th.

such a case entirely out of the question ; expediency was all that was to be considered. He spoke of the injury that would be done to the innocent heir-at-law, and of the heir's right to the real property of his ancestors, as that which ought not to be disappointed by the claims of creditors. He talked, too, of the dangers of innovation ; of the mischief of enacting any law without considering all the consequences to which the principle upon which the law proceeded would lead. My reply to him was, perhaps, in some parts of it, more severe than it should have been : amongst other things, I said that I was surprised and lamented to hear some of the propositions which he had stated ; and the rather, as coming from one who was the only person that appeared amongst us invested with the robes of magistracy.

19th. The Chancellor gave Piggott and me a long account of a very curious conversation he had yesterday with the King ;* I should rather say of a long speech he made to the King. When he went in to his Majesty, and had told him that the Recorder's report was to be made, he says that, though it is contrary to all Court etiquette to speak on any subject which the King has not first mentioned, he proceeded somewhat to this effect :—He said that he was about to do what he believed was very much out of order, but he hoped that his Majesty would excuse it, in consideration of the very extraordinary conjuncture in which the country was placed ; that he was sensible that, when he first entered into his Majesty's service, his Majesty had entertained a prejudice against him ; that he was quite satisfied that that prejudice was now entirely removed ; and that his Majesty did him the justice to believe that he had served him faithfully ; that upon the measure which had been the original occasion of the present state of things (meaning the Catholic Bill, as it has been not very properly called), he thought, both religiously and morally, exactly as his Majesty himself did ; that, however, after what had passed, it appeared to him that

* This, though communicated very confidentially, he afterwards repeated to almost all his friends, and sometimes in large companies at dinner.

the Ministers who had signed the minute of Council* could not possibly, with any consistency of character, retract it ; and that to give a pledge not to offer advice to his Majesty upon measures which the state of public affairs might render necessary, would be, if not an impeachable offence, yet at least that which constitutionally could not be justified. He then said that he thought it his indispensable duty to represent to the King the situation in which he stood ; that he was on the brink of a precipice ; that nothing could be more fatal than to persevere in the resolution which his Majesty had formed, of dismissing his Ministers ; that the day on which that resolution was announced in Ireland would be a day of jubilee to the Catholics ; that they could desire nothing more than to have a Ministry who were supported by all the talents and weight of property in the country, go out upon such a measure ; that he ventured to tell his Majesty that, if he proceeded with his resolution, he would never know another hour of comfort or tranquillity. The King, he says, listened to all this without once interrupting him ; that he could observe, however, by his countenance, that he was greatly agitated ; and when the Chancellor had concluded, the King said to him, “ You are a very honest man, my Lord, and I am very much obliged to you ;” and this was all. The Chancellor thinks that he has made a great impression, and half flatters himself that the King will retract his resolution. The fact, however, is, that his Majesty saw Lord Howick after the Chancellor, and perseveres most firmly in his determination of forming a new Administration.

21st. I received a letter to-day from the Master of the Rolls, complaining of my conduct towards *Master of the Rolls.* him in the late debate ; and I have written him an answer, which I shall send to him, apprizing him what it is that I think I had great reason to complain of in his conduct, and what I meant certainly to resent. He has used me most unkindly ; and I think has acted in a manner unworthy of himself ; but I have no desire to be at enmity with him, or indeed with any man.

* The Chancellor was not one of them.

25th. All the Cabinet Ministers having been yesterday required to attend his Majesty to-day, and *Change of Administration.* deliver up the seals of their offices, did so, except the Lord Chancellor, who is to retain the great seal till this day se'nnight, when the King will again return from Windsor. The King, understanding that there were some causes which had been argued, but in which the Chancellor had not yet pronounced his decrees, desired him to remain a week longer in office, that he might finish the business of his Court.

The Ministers had determined not to resign, but to be dismissed from their offices.

I am still Solicitor-General; but I shall continue such only till my successor is appointed.

I have some satisfaction, now the Ministers are out, in reflecting that I have never asked them for a single favour. There was one thing which I very much wished for; and it is such a trifle, that I take for granted that if I had asked Lord Moira (the Master of the Ordnance) for it, it would have been done for me immediately. It was only to get my brother's youngest son into the Military Academy at Woolwich. However, I did not ask for it; and, to the poor boy's great disappointment, it is not done.

The new Ministry consists of the Duke of Portland, First Lord of the Treasury; Lords Hawkesbury and Castlereagh, and Canning, Secretaries of State; Lord Chatham, Master of the Ordnance; and Perceval, Chancellor of the Exchequer.* This is all, I believe, that is yet settled. Perceval is also to be Chancellor of the Duchy of Lancaster. It was intended that he should have this office for life; but, this intention having got abroad, Henry Martin¹ yesterday gave notice of a motion for to-day in the House of Commons, to address the King, not to grant for life that or any other office which had been usually granted at pleasure.

* In addition to these, it soon afterwards appeared that Lord Camden was to be President of the Council; Lord Westmoreland, Privy Seal; Lord Eldon, Chancellor; and Lord Mulgrave, First Lord of the Admiralty.

¹ The late Master in Chancery.—ED.

The motion was made, and the address carried by a majority of 208 to 115.

26th. Lord Howick in the House of Commons stated very fully all the circumstances which had led to the dismissal of himself and his colleagues. In the House of Lords, Lord Grenville did the same thing; and a very long debate ensued. The most remarkable circumstance in it was Lord Melville taking a part in it, *Lord Melville.* speaking from between the Duke of Cumberland and Lord Eldon, on the bench appropriated to the Ministers. The Duke of Cumberland placed himself at the head of this bench, probably to proclaim to the world that he is the person who has brought about the change of administration.

Mr. Brand has given notice of a motion, upon the dismissal of the Ministers, for Thursday, April 9th.

Both Houses adjourned over the Easter holidays to Wednesday the 8th of April. This adjournment will enable the new Ministers to strengthen themselves very much; every exertion will no doubt be made in the interval to gain over as many Members of Parliament as possible.

29th. Went to Ealing and stayed there till April 3rd.

April 1st. Lord Erskine delivered up the great *Lord Erskine.* seal, and it was given to Lord Eldon.

Two days before Lord Erskine parted with the seal, he appointed his son-in-law, Edward Morris, a Master in Chancery. Sir William Pepys was prevailed on to make a vacancy by resigning. This is surely a most improper act of Lord Erskine's. He ought to have considered himself as out of office last Wednesday. Morris, though a very clever and a very deserving man, has no knowledge in his profession of that particular kind which is necessary to qualify a man to discharge the duties of a Master. This is a matter which will draw reproach on the whole administration; though, in every other department, they have most scrupulously, as I understand, abstained from making any promotions.

Lord Melville was to have been sworn of the Privy Council to-day, and was actually summoned for *Lord Melville.* the purpose. An excuse, however, was made on

the pretence of his being unwell, and he was not restored to the Council.

The new Ministers are, and have been, doing all they *The cry of No* can to excite a cry in the country against *Popery*. *Popery*, and to use religion as an instrument to favour their ambition. Perceval, who by accepting his office has vacated his seat, tells the electors of Northampton, in his advertisement to them, that he doubts not that they will not think the worse of him for having on this occasion quitted his profession, and accepted his new office: that he shall not have forfeited their good opinion "in consequence" (these are his words) "of my coming forward in the service of my Sovereign, and endeavouring to stand by him at this important crisis, when he is making so firm and so necessary a stand for the religious establishment of the country." He then goes on to say that to do this is a duty in the people as well as in the Sovereign.

The Duke of Portland, it seems, who is Chancellor of the University of Oxford, wrote to the University, to desire that they would petition Parliament against the [Catholic] Bill.

The Duke of Cumberland, Chancellor of the University of Dublin, wrote two letters to that University, for the same purpose; and in the last of them very plainly intimated that it was the wish of the King that this should be done. Henry Erskine, who does not make any scruple of repeating his own jokes, told me that he had just been saying to the Duchess of Gordon, that it was much to be lamented that poor Lord George did not live in these times, when he would have stood a chance of being in the Cabinet, instead of being in Newgate.

7th, *Tu.* I dined at Lord Howick's with a large party of the late Ministers and their friends. They are very sanguine as to carrying, by a considerable majority, Mr. Brand's motion. The Prince, however, has declared that he takes no interest about it; the motion being of a nature which much affects the King personally.

8th, *Wed.* Lord Melville was sworn of the Privy Council.

9th, *Th.* Mr. Brand made his promised motion in the House of Commons; which was, for the House to resolve

something to this effect: "that it was contrary to the first duties of the responsible Ministers of the Crown *Mr. Brand's motion.* to give a pledge that they would not offer advice to his Majesty on any subject of national concern." If it had been carried, it would have been followed by other resolutions; "that to advise his Majesty to dismiss his Ministers, because they refused to give such a pledge, was subversive of the Constitution;" and "that the persons who had given such advice, or who had come into office upon any such pledge, expressed or implied, were not deserving of the confidence of the House of Commons;" and then "that the resolutions should be carried up to the King." The debate was a very extraordinary one. Perceval declared that the King had no advisers in the measure; that this proceeding was in truth to arraign the conduct of the King personally; and to call him, as he said, to answer personally at the bar of the House. Canning, after the most fulsome adulation to the King, said that he had made up his mind, when the Catholic Bill was first mentioned, to vote for it if the King was for it, and against it if the King was against it. Every art was used to interest persons for the King. His age was repeatedly mentioned, his pious scruples, his regard for his coronation oath, which some members did not scruple to say would have been violated if the bill had passed. Canning endeavoured to allure men to his party by very gross expedients. He talked about the King's remarkably good health and promise of long life, and the uncommon force and soundness of his understanding. He said very distinctly that, if the question were lost, the Ministers would not go out, but that they should appeal to the people: he meant undoubtedly that they should dissolve the Parliament. The question was lost, and the order of the day was carried, by a majority of 32; 258 for the order of the day, 226 against it.

Our party was so little aware that they should lose the question, and it was so difficult in so full a House to ascertain the numbers in it, that during the division while we were locked out in the lobby, we supposed ourselves the majority by about 20; and in consequence of it, notice was given to the members present, that it was intended to

proceed with the other motions on the same day, at the meeting of the House, it being then past six in the morning.

I spoke in the course of the debate ; and, amongst other things, I said that, for the exercise of every branch of the prerogative, I conceived that some persons were responsible as the advisers of the Crown, even for the choice of Ministers : that the King might by law make whom he pleased his Ministers ; that he might call into his councils, and honour with his confidence, men whom the House of Commons had declared were unworthy of their confidence ; that he might call into his councils a man of whom the House had resolved that he had committed a gross violation of the law and a high breach of duty (in this, of course, I alluded to Lord Melville), and that he might do this while such a resolution was yet standing on the Journals of the House ; but that the Ministers who advised such a measure were deeply responsible for it. That, though such a case would be greatly mitigated by the person having afterwards been tried and acquitted, yet not, if he had been acquitted in such a manner that not one of his numerous and powerful friends had ventured to move to have the resolutions expunged ; and that when he went to seat himself in the other House, he could not look on the countenances of those who were sitting near him and opposite to him, but that, by that necessary association of ideas which is inseparable from our nature, he must have the words "*guilty upon my honour*" resounding in his ears. This provoked some very angry observations from Sir P. Murray, the member for Edinburgh, and a near connexion of Lord Melville's.

My speech upon the whole was a very bad one, and was by no means favourably received by the House. I felt mortified and chagrined to the utmost degree. I have this Session, upon some occasions, particularly on the slave-trade, and in my reply to the Master of the Rolls on the Assets Bill, spoken with very great success, and met with very great applause. I have received compliments without number, and some very extravagant ones ; but all the gratification which my vanity may have had upon those occasions would be much more than compensated for by

one-tenth part of the mortification which the coldness and the appearance which I thought I plainly discovered of the House beginning to be tired of me, have given me. One or two expressions in my speech, which I think were very foolish, have haunted my memory ever since I sat down. It will be long, I think, before I shall venture to speak again.

11th, *Sat.* Plumer received his patent as Solicitor-General, and was sworn in, and therefore I now cease to hold that office. I shall now renew my attendance at the Rolls, which I quitted on being appointed Solicitor-General.

13th. Debate in the House of Lords on the transactions which produced the change of administration. One of the most remarkable things in it was, that Lord Erskine, speaking of the King's repugnance to give his consent to any Bill in favour of the Catholics, because he conceived that it would be a violation of his coronation oath, after showing how little foundation there was for such a notion, said, that it should be remembered that, by the coronation oath, his Majesty swore to govern his people according to the laws and customs of the realm ; and that to require a pledge of his Ministers not to give him counsel on any subject, was manifestly contrary to the constitution, and the laws and customs of the realm : to say, therefore, that the King and not his advisers were the authors of this, was to say that he had undoubtedly broken his coronation oath.¹ No notice was taken of this by any of the Peers who spoke after him. In this debate, and in that which took place in the House of Commons, the grossest adulation to the King has been shown, and the most servile doctrines have been maintained : at the same time, however, nothing can have a greater tendency to democracy than that the personal conduct of the King towards his Ministers should become a subject of public debate.

15th, *Wed.* Debate in the House of Commons on Mr. Lyttleton's motion, expressing the regret of the House on the late change in his Majesty's councils. The motion was rejected by 244 to 198.

¹ See *Hansard's Parliamentary Debates*, vol. ix. p. 362.—ED.

Freehold estates of traders to be assets for payment of their debts. 20th, *Mon.* A few days after the Bill to make freehold estates assets was rejected, I gave notice of a motion for leave to bring in a Bill for the same purpose, but confined to persons in trade. I have since brought in the Bill ; and it was this day, in the House of Commons, read a third time and passed. Many of the objections which were made to the former Bill are applicable to this,—that it is an innovation ; that it is to affect land without evidence in writing ; that it holds out a delusive credit, &c. &c. There has not, however, been a single word uttered in opposition to the Bill in any stage of it. Country gentlemen have no objection to tradesmen being made to pay their debts ; and, to the honour of men in trade, of whom there are a good many in the House, they, too, had no objection to it.¹

Dissolution of Parliament. 26th, *Su.* Parliament, it seems, is to be prorogued to morrow, and then immediately dissolved. It was understood that a dissolution was to take place ; but it was not supposed that it would be before the end of May and the regular close of the Session. An immediate dissolution, it seems, was decided on last Friday, though it has been kept a profound secret till this morning. The object, no doubt, is to take advantage of the cry of No Popery, which has been raised in some parts of the country ; a cry so senseless, and, upon this occasion, so destitute of any facts to warrant it, that it could not but be felt that if the dissolution were postponed for some weeks, it might have wholly died away.

27th, *Mon.* Parliament was this day prorogued. The Lords Commissioners' speech does not affect to disguise how necessary it was not to lose a moment, in order to obtain the benefit of the unfounded clamour which the Ministers have industriously raised. "His Majesty," they say, "is anxious to recur to the sense of his people, while the events which have recently taken place are yet fresh in their recollection ;" and afterwards they say, "His Majesty trusts that the divisions naturally and unavoidably excited by the late unfortunate and uncalled-for agitation

¹ This Bill passed into a law in the first Session of the next Parliament. It is 47 Geo. III. c. 74.—ED.

of a question so interesting to the feelings and opinions of his people will speedily pass away." Alluding to the supposed restraint imposed on the King by his coronation oath, they say, " His Majesty feels that, in resorting to this measure, he affords his people the best opportunity of testifying their determination to support him in every exercise of the prerogatives of his Crown, which is conformable to the sacred obligations under which they are held, and conducive to the welfare of his kingdom, and to the security of the Constitution." A part of the speech which cannot but excite disgust in the mind of every man, is that in which it is said, " His Majesty has directed us most earnestly to recommend to you, that you should cultivate, by all means in your power, a spirit of union, harmony, and goodwill amongst all classes and descriptions of his people." What detestable hypocrisy !

I shall procure myself a seat in the new Parliament, unless I find that it will cost so large a sum as, in the state of my family, it would be very imprudent *Sale of seats in Parliament.* for me to devote to such an object, which I find is very likely to be the case. Tierney, who manages this business for the friends of the late administration, assures me that he can hear of no seats to be disposed of. After a Parliament which has lived little more than four months, one would naturally suppose that those seats which are regularly sold by the proprietors of them would be very cheap. They are, however, in fact, sold now at a higher price than was ever given for them before. Tierney tells me that he has offered 10,000*l.* for the two seats of Westbury, the property of the late Lord Abingdon, and which are to be made the most of by trustees for creditors, and has met with a refusal : 6000*l.* and 5500*l.* have been given for seats with no stipulation as to time, or against the event of a speedy dissolution by the King's death, or by any change of administration. The truth is, that the new Ministers have bought up all the seats that were to be disposed of, and at any prices. Amongst others, Sir C. H——, the great dealer in boroughs, has sold all he had to Ministers. With what money all this is done I know not, but it is supposed that the King, who has greatly

at heart to preserve this new administration, the favourite objects of his choice, has advanced a very large sum out of his privy purse.

This buying of seats is detestable ; and yet it is almost the only way in which one in my situation, who is resolved to be an independent man, can get into Parliament. To come in by a popular election, in the present state of the representation, is quite impossible ; to be placed there by some great lord, and to vote as he shall direct, is to be in a state of complete dependence ; and nothing hardly remains but to owe a seat to the sacrifice of a part of one's fortune. It is true that many men who buy seats do it as a matter of pecuniary speculation, as a profitable way of employing their money. They carry on a political trade ; they buy their seats, and sell their votes. For myself, I can truly say that, by giving money for a seat, I shall make a sacrifice of my private property, merely that I may be enabled to serve the public. I know what danger there is of men's disguising from themselves the real motives of their actions ; but it really does appear to me that it is from this motive alone that I act.¹

May 9th. After almost despairing of being able to get any seat in Parliament, my friend Piggott has at last procured me one ; and the Duke of Norfolk has consented to bring me in for Horsham. It is, however, but a precarious seat. I shall be returned, as I shall have a majority of votes, which the late committee of the House of Commons decided to be good ones ; but there will be a petition against the return, by the candidates who will stand on Lady Irwin's interest, and it is extremely doubtful what will be the event of the petition.

10th, *Su.* I went down to Horsham. The election *Elected for* began on Monday the 11th, and was not over till *Horsham.* the 12th, though the numbers polled were only 44 for Major Parry and myself, and 29 for the other candidates. But the taking down, by the poll-clerk, of the description of every burgage tenement from the deeds of the voters, was a very long operation. I came away on Monday night, and before the election was over.

¹ See vol. i. p. 443.—ED.

12th. The terms upon which I have my seat at Horsham will be best explained by a letter I wrote to Piggott to-day after the election was over, and which I am glad to keep a copy of. It is (at least so much of it as relates to this subject) in these words :—" Though there is no danger that I should have misunderstood you, yet it may be as well just to say, while it is fresh in both our recollections, what I understand to be the extent of my engagement. If I keep the seat, either by the decision of a committee upon a petition, or by a compromise (the Duke and Lady Irwin returning one member each, in which case it is understood that I am to be the member who continues), I am to pay 2000*l.*; if, upon a petition, I lose the seat, I am not to be at any expense." Nothing has been said respecting the possible event of my vacating by accepting an office ; but I take for granted that, in that case, I should be re-elected. It is an event certainly very unlikely to happen, for a change of administration (without which it cannot happen) is not likely to take place during the King's life.

June 9th. I received an application from the prisoners in the King's Bench Prison, to present, in the approaching session of Parliament, a petition from them to the House of Commons, praying that a revision may take place of the law between debtor and creditor.

10th. I answered their letter ; and, as I shall be glad to remember hereafter what I wrote to them, I insert a copy of it in these memoranda :—" Sir, if the persons who have the misfortune to be confined for debt in the King's Bench Prison are desirous that I should present their petition to the House of Commons, I will certainly do it. I had much rather, however, that it should be presented by some other person. It has been suggested, though without any authority from me, that I had it in contemplation to bring a Bill into Parliament to remove the defects of the present laws respecting debtor and creditor ; and my presenting the petition might give some countenance to that idea. I should be extremely sorry to give any countenance to it ; for it would only have the effect of

adding to the many misfortunes which those who are in confinement already suffer,—that of entertaining hopes and encouraging expectations which could only end in disappointment. I have no intention whatever to bring in a Bill on the subject. I think the law, as it at present stands, very defective and very oppressive. I have long thought it so; but I have not been able to discover the proper remedy for those defects and for that oppression. Under these circumstances, I much wish to decline presenting the petition; but if I am required to do it, I will certainly present it: though my presenting it will be followed by no other motion from me than that the petition may lie on the table. I am, Sir, your most obedient, &c. To Mr. John Bell, King's Bench Prison." When I said in this letter that I had not been able to discover the proper remedy for the present defects in the law, I did not go on to say, though it is the fact, that I intend to employ my first leisure in endeavouring to find that remedy. I have little hope, however, that I shall be able to suggest anything that will have any chance of being permitted to pass into a law. It seems best, therefore, not to give any hint of my intentions.

22nd. Parliament met. The Speaker chosen.

*Meeting of
the New
Parliament.* 26th. The Session opened by the King's Speech. Lord Howick in the Commons, and Lord Fortescue in the Lords, moved an amendment to the Address, censuring the late dissolution of Parliament. The numbers upon the division were, in the Lords, for the amendment 67, against it 160; in the Commons, for the amendment 155, against it 350.

27th. The prisoners in the King's Bench having sent me their petition, and again requested that I would present it, I this day presented it to the House of Commons, stating, at the same time, that it was not my intention to take any other step on it than to move that it might lie on the table; which motion I accordingly made.

29th. I this day moved for, and obtained, leave to bring in a Bill to make the freehold estates of traders assets to pay their simple contract debts; the Bill which I had carried through the House of Commons in the last Parlia-

ment having been lost in the Lords by the late dissolution.

30th. The question upon the revival of the committee to inquire into the public expenditure, came on to-day in the House of Commons. Perceval proposed a list of members to form the committee. Nineteen members of the former committee, which consisted of twenty-four, had been returned to the present Parliament. Of these nineteen, six, some of them the most active and useful members of the committee, were omitted in Perceval's list; two others were properly left out, one as being in office, and the other (Sir H. Mildmay) at his own request, because his conduct, in a bargain made with Government, had come into question; and thirteen new members were proposed. The substituting new members in the place of the six unexceptionable members of the former committee was strenuously opposed by all the members and friends of the late administration; and, upon the question whether Sharp, who was of the old committee, should be appointed, or Leycester, whom Perceval proposed, the House divided; for Perceval's motion 244, against it 149. Perceval artfully introduced his motion by stating several instances of the late Ministers having created new places, or given improperly pensions, as a reason why there ought not to be upon a committee who were to inquire into improper transactions of that kind so many friends of the late Ministers. The true object of this was manifestly to divert the attention of the House from the real question; and in a great degree it had that effect. The debate consisted principally of personal attacks and recriminations. I said a few words in the debate; but I avoided all those topics, and endeavoured to impress the House with the importance of satisfying the nation that the inquiries begun in the last Parliament were meant to be seriously prosecuted in this; and of removing the suspicions upon this subject, which, from what passed at many of the late elections, it was evident had gone abroad. Ministers had endeavoured to put all other business depending in Parliament as nearly as they could in the exact state in which it was when the

*Committee to
inquire into
the public
expenditure.*

dissolution took place. With respect to this committee alone, they sought to depart from that line of conduct; though the inquiries prosecuting by this committee were generally considered as the most important business depending in Parliament when it was dissolved. It was so considered by the Ministers themselves, since they had advised the King to advert to it in his speech, and to recommend the revival of the inquiries in the new Parliament; and I observed that persons who had already sat upon the committee, and had their minds occupied with the subject, and had seen and heard the witnesses, must necessarily be better qualified to go on with their researches than men who were new to the business.

Of all the facts stated by Perceval against the late administration, there is only one that appears to me to be of any importance: but that, I think, cannot be justified. It seems that a grant was made of a pension to Lord Cullen, a Lord of Session and Justiciary in *Pension to Lord Cullen, Scotland, of 400l. a-year, with a reversionary a Scotch judge.* pension of 200l. a-year to his wife. Lord Cullen's pension, it seems, was intended to be for life, but by mistake was made to depend on the King's pleasure. The grant had been promised by the Duke of Portland when he was in office; and Lord Cullen's fortune was extremely small, and a part of his salary as a judge had been assigned to trustees to pay his debts; but this, in my opinion, affords no excuse for the measure. The grant of a pension to a judge for life is not by law prohibited, but is surely contrary to the spirit of the Constitution. If the King may grant pensions for life, he may, in substance, give unequal salaries to the judges, as a reward for those who are most subservient to the wishes of his Ministers.

July 13th. I said a few words in the House of Commons in support of Whitbread's Bill for *Education of the Poor.* establishing schools for the education of the poor in all the parishes in England. It was upon the second reading of the Bill. The question was carried, but the Bill will certainly be lost. Many persons think that the subject requires further consideration, and a more ma-

tured plan ; but I am afraid a much greater portion of the House think it expedient that the people should be kept in a state of ignorance.

17th. A Bill which I brought into the House of Commons to alter the practice of courts of equity in suits in which Members of Parliament are defendants, this day passed the House of Commons. The sole object of the Bill is to dispense with the necessity of the plaintiff delivering to the defendant, if he be a person having privilege of Parliament, an office copy of the bill, at the time when he is served with a subpœna to appear to and answer the bill. The expense of these office copies has, by means of stamp-duties on law proceedings, become very considerable. It is true that if, at the conclusion of the cause, the defendant is ordered to pay the costs of the suit, a Member of Parliament who is a defendant in the end pays the expense of the copy which at the commencement of the suit was delivered to him : and in all such cases, the only inconvenience suffered by the plaintiff arises from the advance he is obliged to make, and the not being reimbursed during the time that the cause is going on ; which is, unfortunately, in suits in equity, generally a long period of time. A man must be richer to be able to file a bill against a member of Parliament than against any other individual. There are, however, in courts of equity, some cases where, by the rule of the court, no costs are given on either side ; there are others where, without such a general rule, the court in its discretion does not think fit to give costs on either side ; and there are many more cases in which the plaintiff, being worn out by delay and expense, is unable to prosecute his suit to a hearing, and therefore no costs can be given. In all these cases Members of Parliament are relieved from the ordinary costs of a suit, and that at the expense of their opponents ; and in the last class of cases it is often this double expense thrown on the plaintiff which greatly contributes to render him unable to prosecute his suit to a hearing. This inequality of expense is the more to be complained of, because the party

Bill to abolish a privilege of Members of Parliament, defendants in equity, injurious to other suitors.

having privilege of Parliament is generally more opulent than the man he contends with ; and because it is principally occasioned by the stamp-duties which are imposed by Parliament. As far as relates to these copies, Members of Parliament, when they increase the stamp-duties on law proceedings, tax the whole community except themselves. It has been suggested, that it would be an improvement of the practice of courts of equity, if in all cases the plaintiff were obliged, on filing his bill, to deliver an office copy of it, at his own expense, to the defendant. That is not my opinion ; but even if it were, still, as long as the practice remains such as it is with respect to other suitors, it ought to be the same with respect to Members of Parliament. We can never hope that the defects which exist in the administration of justice will be reformed, if they are never known to, or felt by Members of the Legislature, on whom alone it depends that they should be reformed. The Bill is confined to Members of the House of Commons ; as it appeared to me to be open to much objection, that a Bill to take away the privileges of Peers should have its origin in the House of Commons. I trust, however, that, when the Bill gets into the House of Lords, some Peer will move to insert as an amendment of it, the words "Peers of the realm, or Lords of Parliament."

Lord Cochrane's motion for an account of the places and pensions held by Members of Parliament, their wives, or children. Lord Cochrane, one of the members for Westminster, moved (July 7), in the House of Commons, for the appointment of a committee to ascertain what places and pensions were held by members of the House, or their wives or children. Perceval affected to have no objection to the object of the motion, but proposed to obtain it by having an account stated of all places and pensions granted by Government, with the names of the persons by whom they are held. This, he said, would supply the information which was desired, but in a less invidious manner than by confining the inquiry to Members of Parliament. No person could fail to see that this was suggested as an indirect mode of entirely defeating the object of Lord

Cochrane's motion. It would be long before the account could be made out; and the names of Members of Parliament, their wives and children, would lie unknown or unobserved in a long list of placemen or pensioners. The House divided on the question; and, as might be supposed, there was a great majority for Perceval's amendment—ninety to sixty-one. I voted in the minority. I know of no good reason why there should be any concealment as to places and pensions which are held by Members of Parliament or their near connexions. On the contrary, there seem to be the strongest reasons why the truth on this subject should be known: on the one hand, as it may lead to a reform of a very great evil, that of the increasing influence of the crown over the determinations of Parliament, by means of the places and pensions which are distributed amongst the members of the House of Commons; and on the other, as it will restrain and reduce to their just standard those dangerous exaggerations on this subject which are becoming every day more prevalent. That all public men are corrupt, and that the true interests of the country are disregarded in an unceasing struggle between contending factions for power and emolument, is an opinion spreading very fast through the country. No man has contributed so much and so successfully to propagate this opinion as Cob-
bett, the author of a weekly political paper; Cobbett. which, being written with great acuteness, and with great energy and vigour of style, has obtained a very wide circulation. This writer, who set out with being a zealous supporter of Government, and a furious enemy to republicanism, now every day maintains opinions which manifestly tend to establish the wildest democracy. His favourite doctrine is, that no man in place should be eligible to Parliament. He does not conceal his eager expectation of an approaching revolution, in which I have no doubt that he hopes himself to act some very conspicuous part. Although his opinions on most important subjects have undergone a total change, yet whatever opinion he entertains he advances with all the confidence of infallibility, and without regard to its consequences. He is an enemy

to all foreign trade except the slave-trade, of which he has always declared himself the champion. He has again and again recommended a national bankruptcy, as a measure the most expedient; and, keeping in view these great objects, and that revolution which he expects, he has for a long time determined, as a means of accomplishing his object, to destroy all confidence in every individual who has ever taken any part in public affairs. This he endeavours to effectuate by the grossest misrepresentations of their actions and their words. The only man he at present commends is Sir Francis Burdett, the member for Westminster, now the theme of his most exaggerated panegyric, but once the object of his bitterest invectives. But this Sir Francis Burdett is only an instrument whom he makes use of for the present; and whose reputation, when he finds it no longer subservient to his designs, he will, with his accustomed arts, destroy. Many persons suppose that this man has no object, by the indiscriminate attack which he makes on all parties, but to increase the sale of his paper. I am well satisfied that he has much higher views. Windham, from personal knowledge of this vain and ambitious man, has formed, I am told, the same opinion as that which has been with me the result of reading his publications. He has not mentioned me more than once or twice, and then rather with praise than censure: the horror, therefore, which I entertain of his disposition and designs cannot have been provoked by any personal enmity.

27th, *Mon.* The Irish Insurrection Bill¹ was read *Irish Insur-* a third time and passed. A long debate on *rection Bill.* the Bill for enlisting the army from the militia

¹ This Bill was brought into the House of Commons on the 9th of July, by Sir A. Wellesley (now Duke of Wellington). It gave a power to the Lord-Lieutenant to proclaim disturbed counties; and authorized magistrates to arrest persons who should be found out of their dwellings between sunset and sunrise; and required that persons so arrested should be tried at the Quarter Sessions. A bill was brought in at the same time to oblige all persons in Ireland to register their arms; and authorising magistrates to search for arms. Both these Bills became law: the former is the 47 Geo. III. sess. 2, c. 13; the latter the 47 Geo. III. sess. 2, c. 54.—ED.

had preceded it; and it was not till past three o'clock in the morning that this important measure of the Irish Bill was entered on. Several amendments were moved, on receiving the report; and, amongst others, one to limit the duration of the Bill to one year; but they were all rejected. Consequently the Bill stands as it went through the committee; and is to continue in force for two years, and to the end of the then next session of parliament. It was five o'clock in the morning before the question upon the third reading was put; on which question alone could the justice and policy of the measure be discussed; for, on the second reading, an understanding had prevailed on all sides, that the Bill should go into a committee, that it might be seen how far it could be altered or mitigated, before its merits were debated. The debate which now took place was such as might have been expected at such an hour, when every body was tired and exhausted; and it lasted but a short time. Mr. Grattan spoke for the Bill: he had voted for the shorter period of its duration, and for all the mitigations which had been proposed; but yet he declared that, such as the Bill was, he thought it a necessary measure; and he said that to his knowledge there was a French party in Ireland. His arguments, or rather his assertions, or, to speak still more accurately, his authority, had great weight, and determined many, who had come to the House intending to vote against the Bill, to go away without dividing. Amongst these were Lord Milton, Ward (Lord Dudley's son), Ponsonby, (the nephew of the late Irish Chancellor), and Dillon. For myself, the measure appeared to me to be so impolitic, so unjust, and likely to produce so much mischief, that I determined, if any person divided the House, to vote against it. Sheridan did divide it on the question that the Bill do pass, and I found myself in a minority of 10, including the tellers, against 108. The 10 were, Sheridan, Lord William Russell, Daly, Colonel Talbot, Piggott, Henry Martin, Abercromby, Sharp, P. Moore, and myself. I did not speak upon the bill: that it would pass, whatever might be said against it, I could not doubt; and I therefore

thought that to state my objections to it could have no other effect than to increase the mischief which I wished to prevent. What triumphant arguments will not this Bill, and that which is depending in the House for preventing the people having arms, furnish the disaffected with in Ireland ! What laws more tyrannical could they have to dread, if the French yoke were imposed on them ? What worse could they endure than to be exposed to domiciliary visits ; to have their houses broken open in the dead of night ; and to see insolent superintendents forcing their way into every bedchamber, to see that none of the family are from home ; and to have those, who at such a season shall be absent, without being able to produce witnesses to prove that it was on some lawful occasion, subjected to transportation as felons to New South Wales ? Can it be expected that men will be so blindly attached to a bondage thus cruel and degrading as willingly to shed their blood in defence of it ?

To adopt such a measure, at a moment like the present, appears to me to be little short of madness. Unfortunately the measure had been in the contemplation of the late Ministry. They had left a draft of the Bill in the Secretary of State's office ; and they were now ashamed to oppose what some of them had themselves thought of proposing. The Attorney and Solicitor-General of Ireland had approved of the bill ; but Piggott and myself had never heard that such a matter was in agitation till it was brought into the House by the present Ministers.

The Bill which I brought into the House of Commons, to dispense with the necessity of delivering office-copies of bills in equity to members of Parliament who are defendants, passed the House of Lords without any alteration.* The operation of it was confined to Members of the House of Commons ; because I thought that the Lords might take offence at any act which was to abridge their privileges, originating with the Commons ; but I had no doubt that, when the Bill got into the House of Lords, some

* See the Act, 47 Geo. 3. sess. 2. c. 40.

peer would move, as an amendment, that it should extend to the members of that House as well as of the House of Commons. And, in truth, such an amendment would have been moved by Lord Holland, but we found that the Bill so altered would meet with opposition, and would probably be lost; and I thought it better to do the little good that was allowed me, rather than, by attempting too much, fail of doing anything. As the Bill stood, no peer could with decency oppose it; for, if the Commons chose to part with their privileges, what pretext could any peer find for resisting it? and the bill did accordingly pass without opposition. The Chancellor has since told me, that the Peers must through shame pass a Bill to the same effect as to themselves, in the next session.

Aug. 6th. Whitbread's Bill for establishing parochial schools was read a third time, and passed the House of Commons. No opposition was given *Education of the poor.* to it now, but it had been strenuously opposed in former stages; and it is probably suffered to pass the Commons, because it is well known that it will be rejected by the Lords. That such country gentlemen (so they are usually called) as — and — should oppose such a measure, might be expected: that a writer like Mandeville should have been a warm enemy to giving instruction to the mass of the people, is natural, and perfectly agrees with his great maxim in politics, that private vices are public benefits; but that a man so enlightened as Windham,¹ and having upon many subjects such just notions, *Windham.* should take the same side (which he has done most earnestly), would excite great astonishment, if one did not recollect his eager opposition a few months ago to the abolition of the slave trade. It has been said, that when it is proposed to communicate knowledge to the lowest classes of society, it is very important to be informed what knowledge it is intended to give them; and that we should be very sure that they will not be taught errors both in religion and politics, instead of truths. But what is proposed is, not to give knowledge to the poor, but to

¹ See *infra*, May 1st, 1810.—ED.

qualify them to acquire it: it is by teaching them reading, writing, and arithmetic, to give them means, which they do not now possess, of acquiring and communicating ideas, and of exercising their minds. If man be distinguished from the rest of the animal creation by reason, surely to improve that faculty, and to supply it with materials to work on, is to render him, whatever be his station of life, more perfect. If we could give our species a new sense, we surely would not withhold it from them. To enable men to read and write is, as it were, to give them a new sense. We cannot prevent those who are in the lowest ranks of life having political opinions; and few men would venture to avow that they would prevent it if they could. The question then, is, whether it be better to let persons in inferior stations acquire their notions of politics and political economy from their companions, or from men of a juster way of thinking and more cultivated understandings—from ignorant clowns or from writers of merit. The alarm lest false notions in politics and religion should spread throughout the country with a facility of acquiring knowledge, proceeds upon the false supposition that, if discussion were left free, error would be likely to prevail over truth. The danger of seditions and insurrections have been talked of, as if the most ignorant nations were not the most easily misled, and the most prone to tumults. Sir Francis Bacon, who had as well studied mankind, both in history and by observation, as Mr. Windham, says, “Citra omnem controversiam, artes emolliunt mores, teneros reddunt, sequaces, cereos, et ad mandata, Imperii ductiles. Ignorantia, contrâ, contumaces, refractarios, seditiosos. Quod ex historiâ clarissime patet, quandoquidem tempora maxime indocta, inculta, barbara, tumultibus, seditionibus, mutationibusque maxime obnoxia fuerint.” *De Augm. Scient.*, lib. i.; *Bacon's Works*, vol. iv. p. 25.

7th. The Bill to prevent improper persons in Ireland from having arms was read a third time and passed. I had concurred with others in endeavouring in the committee to mitigate some of its severities, but without success. I voted against the Bill; but.

for the same reasons as I have given with respect to the Insurrection Bill, I did not speak upon it. Although this, as well as the other Bill, was a measure intended to have been adopted by the late Ministry, I found myself in not quite so small a minority as before: the numbers were, for the Bill¹, 79; against it, 34.

10th, *Mon.* The Bill to prevent the Crown from granting places in reversion, which was depending in the House of Lords at the dissolution of the last Parliament, had been brought into the present Parliament by Mr. Bankes, the chairman of the Finance Committee, and went through the House of Commons without objection from any quarter. In the House of Lords, upon the second reading, it was opposed by Lord Melville and Lord Arden; of whom the latter enjoys a most lucrative office—that of Registrar of the Admiralty Court, granted to him while it was in reversion, with a second reversion to his brother, Perceval, the Chancellor of the Exchequer. Not one of the Ministers, except the Lord Chancellor, was present. He, together with Lord Redesdale, Lord Melville, and Lord Arden, voted against the Bill; and it was thrown out.² Bankes immediately gave notice of a motion upon the subject; and this day he moved accordingly that the House should address the King not to grant any office in reversion, before the end of [six] weeks after the meeting of the next session of Parliament. The Ministers did not oppose it, and the motion was carried unanimously. Perceval's reason for not opposing it, and the excuse he offered for Ministers in having been absent when the Bill was discussed in the House of Lords, was a singular one. It was, that he and his colleagues thought the measure one of very

¹ Five members of the preceding administration were in the minority, viz. Lord Henry Petty, Sheridan, Windham, Sir Arthur Piggott, and Sir S. Romilly.—ED.

² On the ground that a bill of so much importance ought not to be decided upon in so thin a House, Lord Holland moved that the debate should be adjourned till the next day, which motion was lost by a majority of fifteen to nine; and the Bill was then rejected without a division.—ED.

little importance: that it would neither do the good which was expected from it by its partizans, nor prove so injurious to the prerogative as was represented by its enemies. A strange account this, surely, of the conduct of an administration! If good is not to be expected from the measure, and considerable good too, it is an unnecessary and therefore an improper interference with the prerogative! Men who entertain such opinions respecting the prerogative as Perceval and his colleagues have always professed, cannot consider such a measure as indifferent. The truth is, that the King's friends, as some men affect to call themselves, consider it highly objectionable. Mansfield, the Chief Justice of the Common Pleas, is loud in his censures of it, and most anxious that it should not pass into a law. I hardly recollect any public measure on which he has manifested more eagerness, unless it were on Lord Melville's trial, that that nobleman should be acquitted.

Considering only the King now on the throne, the Bill will certainly diminish his power; but if we extend our view beyond the individual to the kingly office, it must necessarily enlarge and strengthen his authority. The lucrative offices which are in the gift of the Crown may be considered as a large fund, affording the means of rewarding public services, or of gratifying royal favour.* The giving an office in reversion is always a most wasteful and prodigal application of that fund. In this respect, the case of monarchs is exactly the same as that of private men. A thoughtless and spendthrift heir who sells his reversionary interest has not a sixth part of the advan-

* This reasoning is applicable principally to sinecure offices. With respect to offices to which duties are attached, they ought not to be granted in reversion; because the person to whom they are granted, though well qualified to discharge the duties of the office when the grant is made, may have become unqualified for it by age or infirmity, before the office comes into possession. For this reason alone, it has been held by our Courts of Justice, that the King could not by law grant in reversion a judicial office. (See Auditor Curl's case, Co. Rep. vol. xi. p. 4.) The same reason applies to every office to which duties belong, though not with the same force; the administration of justice being the most important of all duties.

tage which he would derive from his property, if he waited till the prior interest was determined, and his reversion had become an estate in possession: and just the same is it with a prince who suffers his goodness to be abused in the inconsiderate distribution of places in reversion. At the time when the reversionary place is granted, the present value of it is very inconsiderable; and as such it is made the reward of no very signal service, or is given as a token of no extraordinary favour; but when the place comes to be possessed in present enjoyment, it is that which might well have been granted as a recompence for the most essential services, or the most meritorious conduct. The grantee of the office, glad, as is the natural disposition of mankind, not to be loaded with too great a debt of gratitude,* considers what was given to him, not what he enjoys; and ascribes the greatest part of the emoluments which he possesses, and which are yielded to him by the public, to his own good fortune in having survived the person whom he found in possession of the office, rather than to the gracious beneficence of his royal master. If we forget the interests of the Crown to regard only the personal advantage of the Prince who happens at present to wear it, we may well suppose the prohibition of all such grants to be injurious; but if we regard the Crown, not as an estate for life, but as a permanent inheritance, no doubt surely can be entertained upon the subject. I say nothing of the interests of the people, because I cannot think that, upon this point, they are at all different from those of the Crown.

13th. Sheridan moved a resolution in the House of Commons respecting Ireland. The purport of it was, that Parliament would, early in the next *Ireland.* Session, take the state of that part of the empire into its most serious consideration. The motion, it is hardly ne-

* Lord Hale, in an imperfect tract on the amendment of the law, published in *Hargrave's Law Tracts*, p. 280, proposes not only the prevention of grants of offices in reversion in future, but the resumption of such grants already made, and the substituting pensions to the holders of such offices, in lieu of their salaries; and he adds, "neither the King nor the people would be losers by it."

cessary to say, was lost. The minority, which voted for it, was 33; the majority, which rejected it, 76.¹

14th. On this day the Parliament was prorogued. The Royal Assent was given by commission on the prorogued. same day to many different Bills; amongst others, to the Bill which I had brought into the House of Commons, to subject the real estates of traders who die indebted, to the payment of their simple contract debts. The Bill was put off from day to day, till the very last hour at which it could pass, by the Lord Chancellor; whose doubting and fluctuating mind considered again and again, whether some unforeseen inconvenience, which he knew not how to represent to himself, might not possibly attend it in practice. At one time he was strongly disposed to throw it out, thinking it too late in the Session to consider sufficiently so important a measure, as he was pleased to call it. He one day sent for me into his room at Lincoln's Inn Hall, and showed me two clauses which he had drawn, and which he proposed to add to the Bill, and asked me what I thought of them. They were so obscure, that, after reading them repeatedly, I found myself, very reluctantly and with great shame, obliged to ask him what the object of them was. He explained to me that they were intended to enable the heir of a trader who should die seised of a real estate more than sufficient to pay his debts, to sell part of the estate, leaving the rest to answer the demands of creditors. Without this explanation, I certainly never should have collected, from the words of the proposed clauses, that that was their object. The Bill, as it stood, did not prevent the heir from selling the whole of the real estate, and gave the creditors no power of following it in the hands of a purchaser; such clauses, therefore, were altogether unnecessary. I satisfied the Chancellor of this, and he gave up his clauses; and at last suffered the Bill to pass just as it came up from the Commons, with the addition of a few words only, to prevent its being so con-

¹ Sir S. Romilly voted in the minority.—ED.

strued as to destroy the distinction, which now prevails in courts of equity, between legal and equitable assets.* Lord Redesdale had opposed the Bill in some of its stages; and what seemed very strange, considering that he was a decided enemy to the first Bill which I brought into the House of Commons, he moved in the committee to leave out the words confining the operation of the Bill to traders, and to make it apply generally to the freehold estates of persons of all descriptions. The reason he assigned was, that it would open a great field for litigation, to ascertain whether a man was or was not at the time of his death, a trader within the Bankrupt Laws. But as he was an enemy to the measure altogether, his real object perhaps was to have the Bill thrown out upon its being returned to the Commons, which it infallibly would have been if the amendment had been carried.

While the Bill was depending in the House of Lords, it occurred to me more forcibly than it had ever done before, that a bad use might possibly be made of the Bill, by having recourse to the expensive proceedings of a Chancery suit, in cases where a trader had died seised of a very small real estate; and, in order to obviate this evil, I suggested to the Chancellor to amend the Bill, by restraining its operation to cases where the real estate of the trader was of the clear yearly value of 10*l.* or upwards. But upon further reflection I thought that this would rather have a tendency to increase than to diminish expensive litigations. It would in many cases be made a question, whether the deceased debtor's estate was of that value; and, as we see continually in Chancery, witnesses would be examined, at an expense greater than the whole value of the estate, to prove what its real value was. The Chancellor concurred in this objection, as he had before concurred in the proposed amendment;

* Query.—Whether there was such an addition¹; and see the Act, 37 Geo. 3. sess. 2. c. 74. Such an addition would certainly have been unnecessary.

¹ No such addition was made; the Act is in the same words as the Bill when first introduced.—ED.

and the Bill, as passed, extends to all the freehold estates of traders, without any limitation in point of value. It will occasion undoubtedly some improper suits ; but that is an evil which admits of no other remedy than a reform of the Court of Chancery. There are already improper suits to compel the administration of the *personal* estates of deceased debtors ; but no person can imagine that the proper remedy for this evil would be to exempt personal assets from the payment of debts.

21st. I left town for the long vacation, intending to pass it at Cowes in the Isle of Wight with my family.

I have some cases which I have been unable for some time past, during my close attendance in court, to answer ; and these I very reluctantly *Answering cases professionally.* take with me into the country ; but I am determined not to let any fresh cases be sent after me. If I were to suffer this, I should have full occupation, and occupation of a kind extremely disagreeable to me, during the whole vacation. The truth is, that, for the last two or three years, I have declined, as much as I well could, the giving of opinions. It is so important that one's opinion should be right (for in many cases it has the effect of a decision to the parties, and in others it involves them in expensive litigations), and at the same time it is so difficult, in the state of uncertainty which the law is in, to satisfy one's mind upon many questions put to one, and, in many cases, it must depend so much upon the particular mode of thinking of the judge before whom the question may happen to be brought, what the decision will be, that I have long found this to be the most irksome part of my profession.

Oct. 16th. On this day I quitted the Isle of Wight.

Manner of passing my time in the Isle of Wight. The time I spent there was passed very happily. For the last five weeks my excellent friend Dumont was with us, and added much to the pleasure of our society. If the state of public affairs had been less alarming, I might have reckoned this vacation among the happiest periods of my life. A letter which I wrote to Dumont to invite him to join us, gives so correct a picture of my situation

at Cowes, that I shall perhaps hereafter have great pleasure in recollecting it; and will therefore preserve a copy of it.

Dear Dumont,

Cowes, Aug. 25, 1807.

We arrived here last Saturday; and, though so short a time has elapsed, I seem to be quite settled here, and am enjoying what seems to me like perfect leisure. Not that I have yet really got rid of all business. To escape from town as early as I have done, I was obliged to encumber myself with a few remaining cases; but I shall very soon have answered them, and then shall have nothing to do all the day but to amuse myself with the books I have brought with me, to stroll about the country or sail upon the sea, and admire the cheerful and varied scenes with which this neighbourhood abounds. My only business, if business it can be called, is, that I have undertaken to be William's preceptor for an hour or two every day, lest he should forget, while he is here, all that the Abbé Buchet has taught him. I never enjoyed this kind of life more than at the present moment. The hot weather we have had in town, the ten hours a-day which I have been almost uninterruptedly passing for some weeks in the Court of Chancery, the House of Lords, and the Rolls, with the addition of now and then a very late night in the House of Commons, had given me a most ardent longing for the country; and I am now almost satiating myself with its delights. I hope to enjoy, for some weeks at least, the greatest of earthly blessings,—the most perfect calm and tranquillity, in a beautiful country, and with those who are dearest to me in the world. Who knows but this may be the last summer of my life, in which it will be permitted to me to have such enjoyments! What is passing abroad, and what is passing at home, affords us but a melancholy prospect; and a man with but a little foresight, and only a slight attention to what he sees, even though he be not either of a very gloomy or a very timid disposition, must think that this country will be fortunate indeed if it is not soon involved, and perhaps for a very long period, in turbulence and dis-

asters. These, however, are reflections which I endeavour to banish from my mind ; and, as nothing that I can do can avert any of the misfortunes which threaten us, I indulge myself in enjoying the good that is still, and perhaps will not long be, within my reach. You talked of paying us a visit ; nay, I think you promised us one. I hope you will not fail to keep your promise. Come and see how tranquil, how uniform, and how happy a life we lead, &c. &c¹.

Soon after writing this letter, I found for myself some occupations not mentioned in it, and which were to me a source of great enjoyment. I began to put down in writing some observations on my present situation in life, and my future prospects ; in the course of which, I indulged myself with passing in review some projects for the public benefit, which there seems no probability indeed that I shall ever realize. But the mere contemplation of them, though only a kind of delusive vision, afforded me so much delight, that I cannot think my time was ill spent ; and though the paper is but an imperfect fragment², I mean

¹ The letter proceeds thus :—ED. “Come and partake of our happiness. I should rather address myself to your generosity, and say, come and add to it, for your society will very greatly add to that happiness which is already ours. We can give you a bed-chamber ; one that is small indeed, but yet so pleasant, that if you should wish any part of the day to be quite by yourself, you will not, I think, have any objection to make your bed-chamber your study. At any rate pray let us hear from you, and without delay. We think of staying here perhaps till the middle, but certainly till the beginning, of October. Among the few books I have brought with me, are Bentham’s yet unpublished pamphlet on the ‘Reform of the Scotch Judicature,’ and ‘Bacon de Augmentis Scientiarum.’ In Bacon, I have just met with a description of a class of writers who lived a little before his time, amongst whom I am afraid that, in some respects, our friend may be ranked. ‘Verba licenter admodum cudentes nova et horrida, de orationis ornatu et elegantia parum solliciti, dum modo circuituionem evitarent et sensus ac conceptus suos acute exprimerent.’

“When you arrive here, inquire for Captain Hoskins’, for that is the house we are living in. Anne desires to be particularly remembered to you.”

² The paper here referred to, together with some others written with the same view, and under the influence of the same feelings, will be found at the end of Vol. II.—ED.

to preserve it, as there is a possibility (though but a possibility) that it may at some future time be useful to me.

There were other projects to which I devoted some portion of my time at Cowes, which I have a better prospect of carrying into execution, and which I need not defer attempting to any distant period. I have long been struck with the gross defects which there are in our Criminal Law, and with the serious evils which result from our present mode of administering it. When I first went the circuit, which is now twenty-three years ago, some instances of judicial injustice which I met with made a deep impression on me ; and I resolved to attempt some reform of the system, if I ever should have an opportunity of doing it with any prospect of success. It would give me great concern to have been some time in the House of Commons without making any such attempt ; and yet my parliamentary life may now be hastening quickly to an end. There is a petition against my return, and it will be one of the first disposed of in the approaching session. What I have it in contemplation to do, however, compared with what should be done, is very little. It is only, in the first place, to invest criminal courts with a power of making to persons who shall have been accused of felonies, and shall have been acquitted, a compensation, to be paid out of the county-rates, for the expenses they will have been put to, the loss of time they will have incurred, the imprisonment and the other evils they will have suffered : not to provide that there should be a compensation awarded in all cases of acquittal, but merely that the Court, judging of all the circumstances of the case, should have a power, if it thinks proper, to order such a compensation to be paid, and to fix the amount of it ; a power similar to that which it now has under two acts passed in the reign of Geo. II.¹, to allow the expenses of the prosecution, and a compensation for loss of time and trouble to the prosecutor.

The only other object I had in view was to remove that

¹ 25 Geo. 2. c. 36. s. 11. and 28 Geo. 2. c. 19.—ED.

severity in our law which has arisen from no intention of the Legislature, but altogether from accidental circumstances; and in all the cases of felonies made capital, according to the value of the thing stolen, and where, by the depreciation of money which has since taken place, that standard of guilt has become far different from what it originally was, to re-enact the laws, fixing the sums mentioned in them much higher, and according to the difference between the then and the present value of money. This ought long ago to have been done. As all the articles of life have been gradually for many years becoming dearer, the life of man has, in the contemplation of the Legislature, been growing cheaper and of less account. A stop ought to be put to that shameful trifling with oaths, to those pious perjuries (as Blackstone somewhere calls them), by which juries are humanely induced to find things not to be worth a tenth part of what is notoriously their value.

I occupied myself a good deal with these two objects, and in writing down the arguments by which I should endeavour to recommend them to the House, and the answers to such objections as appeared to me likely to be made to them. I drew, too, one of the intended Bills, that to provide a compensation for persons wrongfully accused; but, not having the statutes with me, I could not prepare the other Bill.

Upon quitting the Isle of Wight I proceeded with Anne to Bath, where her sister, Mrs. Whittaker, who was to have joined us at Cowes, and had set out on her journey, was stopped by illness, and was still confined when we arrived there on the 17th of October.

October 19th. I set out for Durham, leaving Anne at Bath, and intending to return for her and to accompany her to town.

23rd. I held my sittings, as Chancellor, at Durham.
Court at Durham. The business, as usual, was very inconsiderable.

24th. I sat in an adjourned Court of Gaol Delivery, a Court which is continued by adjournments from time to time, from one assizes to another; and which the Durham justices had adjourned to the day on which I was to be

there, in order that they might have my assistance in deciding on an application made to them by a prisoner, committed for a capital felony, to be admitted to bail. The offence was that of firing at a man with a gun loaded with shot, which is made capital by the statute [43] Geo. III. c. [58.] commonly called Lord Ellenborough's Act. Upon the circumstances, as they appeared in the affidavits, it was clear that if the man had been killed it would not have been murder, but only manslaughter. I therefore thought, although the Act is in this respect very defectively expressed, that the prisoner would, if the facts should appear the same upon his trial, be entitled to his acquittal, and that he ought to be bailed; which was accordingly done. If bail had not been accepted for this man, he must have remained in gaol for ten months; as the next assizes at Durham, where they are held only once a year, will not be till late in August. After having suffered an imprisonment of eleven months (for he has been above a month in prison already), it would have been declared by the verdict of the jury that he was not deserving of any punishment.*

After dining with the Bishop at Auckland, I went on and slept at Catterick Bridge. The next night, Oct. 25th, I slept at Chesterfield; the 26th, at Worcester; the 27th, at Bath. On the 29th I arrived in London. The next day, the 30th, the Lord Chancellor held his first seal before the Michaelmas Term.

1808.

Jan. 21st. Parliament met. A debate on the King's speech took place in both Houses; and, in the Lords, an amendment was moved by the Duke Meeting of Parliament.

* At the ensuing assizes in 1808 this man was acquitted.

of Norfolk, to leave out of the Address those words which import an approbation of the expedition against Copenhagen. There was no division in either House, and not even an amendment moved in the Commons. It had been very industriously given out, for some days before the meeting of Parliament, that the Address would be very general, would be so framed as to pledge the House to nothing, and would not admit of any opposition. The members of the Opposition were deceived by these representations, and were unprepared to move an amendment, as they certainly ought to have done.

23rd. I dined to-day at Lord Erskine's. It was what *Lord Erskine*. might be called a great Opposition dinner: the party consisted of the Duke of Norfolk, Lord Grenville, Lord Grey, Lord Holland, Lord Ellenborough, Lord Lauderdale, Lord Henry Petty, Thomas Grenville, Tierney, Piggott, Adam, Edward Morris (Lord Erskine's son-in-law), and myself. This was the whole company, with the addition of one person; but that one the man most unfit to be invited to such a party that could have been found, if such a man had been anxiously looked for. It was no other than Mr. Pinkney, the American Minister: this, at a time when the Opposition are accused of favouring America to the injury of their own country, and when Erskine himself is charged with being particularly devoted to the Americans! These are topics which are every day insisted on with the utmost malevolence in all the Ministerial newspapers *, and particularly in Cobbett. If, however, the most malignant enemies of Erskine had been present, they would have admitted that nothing could be more innocent than the conversation which passed. Politics were hardly mentioned; and Mr. Pinkney's presence evidently imposed a restraint upon everybody.

Among the light and trifling topics of conversation after dinner, it may be worth while to mention one, as it strongly characterizes Lord Erskine. He has always ex-

* By a very strange good fortune this dinner never was mentioned in the newspapers.

pressed and felt a great sympathy for animals. He has talked for years of a Bill he was to bring into Parliament to prevent cruelty towards them. He has always had several favourite animals, to whom he has been much attached, and of whom all his acquaintance have a number of anecdotes to relate,—a favourite dog, which he used to bring when he was at the bar to all his consultations; another favourite dog, which, at the time when he was Lord Chancellor, he himself rescued in the street from some boys who were about to kill him, under pretence of its being mad; a favourite goose, which followed him wherever he walked about his grounds; a favourite mackaw, and other dumb favourites without number. He told us now that he had got two favourite leeches. He had been bled by them last Autumn, when he had been dangerously ill at Portsmouth; they had saved his life, and he had brought them with him to town; had ever since kept them in a glass; had himself every day given them fresh water; and had formed a friendship with them. He said he was sure they both knew him, and were grateful to him. He had given them different names, Home and Cline (the names of two celebrated surgeons), their dispositions being quite different. After a good deal of conversation about them, he went himself, brought them out of his library, and placed them in their glass upon the table. It is impossible, however, without the vivacity, the tones, the details, and the gestures of Lord Erskine, to give an adequate idea of this singular scene.

I have for the present given up the intention I had entertained of bringing a Bill into Parliament to make some improvements in the *Criminal Law*. George Wilson has dissuaded me from it. He thinks that unless I first consult the Judges upon it, not only I am not likely to carry it, but I shall in all probability prejudice any attempts at improving the law which I may make at any future time, and under more favourable circumstances. A better judgment than Wilson's upon such a subject there cannot be, and I reluctantly submit to be governed by it. I cannot think of consulting the Judges;

I have not the least hope that they would approve of the measure ; besides, before I could get their opinion on it, the petition may be decided against me and I may be out of Parliament.

[Feb. 1st.] Upon the third reading of the Bill to prevent granting offices in reversion, I said a few words, to draw if I could from the Ministers their opinion on it ; but without success, except that Perceval, as he had done formerly, said that he looked on the Bill with great indifference.

22nd. The papers respecting Lord Wellesley's conduct in the affair of the Nabob of Oude, *Lord Wellesley.* were this day to have been taken into consideration in the House of Commons. I spoke in support of a motion made by Creevey, that the papers should be referred to a committee to report upon them. Though the papers have been long printed, yet, as they are extremely voluminous, and as no statement has ever been made to the House which can assist any person who reads them, or direct his attention to any particular parts of them, they will never be read ; and the House will decide upon the question in total ignorance of its merits. I have endeavoured to make myself master of the subject ; and the conduct of Lord Wellesley appears to me to be unjustifiable. Creevey's motion was lost ; and the debate on resolutions, afterwards moved by Lord Folkestone, was adjourned to a future day.

23rd. At the particular request of the Bishop of Durham, I went into the Court of King's Bench upon the trial of his cause with Col. Beaumont.

26th, *Fri.* The Committee on the Horsham Petition, *The Horsham petition decided against me.* which had decided all the questions raised by the council in favour of the sitting members, on this day finally decided against them, upon a question of law, which had never been insisted on by the counsel for the petition, and which was quite incapable of being supported. The effect of it, however, is to exclude me from Parliament, and to put an end, certainly for the present, and perhaps for ever, to my political existence.

March 26th. My absence from Parliament is not likely to be of long duration. Lord Henry Petty has had some conversation with Calcraft about one of the seats at Wareham ; and, though Calcraft knows how little I was to have given for my seat at Horsham, he says that that circumstance does not afford an insuperable objection to my being returned for Wareham.

April 1st. Piggott took occasion to speak to Calcraft on the subject of Wareham, and this morning informed me that I might have the seat for 2000*l.*, the sum which I was to have paid for Horsham ; but that, though I was to pay no more, Calcraft would receive 3000*l.*; the remaining 1000*l.* being paid out of a fund which, till now, I did not know existed, and which has been formed, as I understand, by the most distinguished persons in Opposition, to answer extraordinary occasions. I was staggered at the first mention of this, and stated my objections to Piggott. He told me that he did not see how I could consider it as in any respect objectionable ; that the principal persons of Opposition were very anxious that I should be in Parliament, and only regretted that I should be at any expense at all. I cannot, however, persuade myself to accept a seat upon these terms ; and accordingly, in the evening, I wrote Piggott a note in these words :—
“ It is impossible to be more sensible than I am of the very kind and friendly part which you have taken for me. But, after reflecting on what was the subject of our conversation this morning, I feel a very great reluctance to consent to let the matter be arranged in the way that has been proposed. I am afraid that, after the matter is settled, I shall feel uncomfortable about it ; and I had rather at once determine to be at all the expense myself. Do not ascribe this to any pretensions to an extraordinary degree of delicacy ; I really have no such pretensions ; but where one is in doubt it is best to be on the safe side ; and as it is only a pecuniary sacrifice that is to be made, it is a great satisfaction to be quite sure that one will not hereafter have cause to repent of what one has done. I

must again and again thank you for your kindness to me, upon this, and upon former occasions."

The matter has been settled with Mr. Calcraft accordingly, and I pay the whole 3000*l.* myself.

14th. Sir Granby Calcraft, who sat for Wareham, vacated by accepting the Chiltern Hundreds.

20th. I was this day elected. Though Mr. Calcraft has the entire command of the borough, he wished me to go down, which I accordingly did.

During the short time that I was out of Parliament I regretted very much that I had made no attempt to mitigate the severity of the criminal law. *Criminal Law.* It appeared to me that merely to have brought the subject under the view of the public, and to have made it a matter of parliamentary discussion, would, though my motion had been rejected, have been attended with good effects. On coming again into Parliament, therefore, I determined to resume my original design. In the meantime I had had some conversation on the subject with my friend Scarlett¹; and he had advised me not to content myself with merely raising the amount of the value of property the stealing of which is to subject the offender to capital punishment, but to attempt at once to repeal all the statutes which punish with death mere thefts, unaccompanied by any act of violence, or other circumstance of aggravation. This suggestion was very agreeable to me. But, as it appeared to me that I had no chance of being able to carry through the House a bill which was to expunge at once all these laws from the statute book, I determined to attempt the repeal of them one by one; and to begin with the most odious of them, the Act of Queen Elizabeth², which makes it a capital offence to steal privately from the person of another.

May 18th, Wed. Having previously given notice of my intention, I this day moved for leave to bring in, first, a Bill to repeal the statute of Queen Elizabeth; and, secondly, a Bill for granting compensation, in certain

¹ Now Lord Abinger.—ED.

² 8 Eliz. c. 4.—ED.

cases, to persons tried for felonies and acquitted. To the first of these motions no direct opposition was given; but Mr. Herbert, the member for Kerry, talked about the danger of innovation and the excellence of our Criminal Law; and, not opposing the motion, announced an intention of opposing the Bill. The other motion was resisted by Plumer, the Solicitor-General. I had declared that it was not my intention to propose a compensation in all cases; but to follow the model of the statute of 25 Geo. II. [c. 36.], with respect to the reimbursing to prosecutors the expenses of their prosecutions, and affording them a compensation for their trouble and loss of time; and to leave it to the Court by whom the prisoner is tried whether he should have any, and what, compensation. Such a law, Plumer said, would impose on the Judges a very difficult and odious task; and it would establish a distinction between acquittals with the approbation, and those without the approbation, of the Judge, which he represented as very dangerous and unconstitutional. Sir Francis Burdett indeed, before Plumer, had stated the same objection; and I find that it is considered as a very serious one by many members of the House; which I confess much astonishes me. If the effect of a verdict of acquittal was to restore a man completely to his good name, and to send him with an unblemished character into the world, it would be very dangerous to give to the Judges any power of weakening such a certificate of innocence; but it is well known that, in practice, this is far from being the effect of an acquittal. So notorious is it, that men may be, and every day are acquitted, in consequence of some error of form or some defect of evidence, that to have been tried is, in general, alone sufficient to destroy a man's character; and a poor wretch who issues forth from a prison will no where find employment, even though he may boast of an acquittal. That a man comes out of a jail is a fact which is plain and notorious; and who, in the case of a person in a state of the lowest indigence, will take the trouble to inquire into the circumstances of his case? The being able to produce a certificate of the *Compensation to persons wrongfully accused.*

Judge allowing his expenses would be decisive evidence of his innocence; the not producing such a certificate would only leave the party in the state in which all acquitted men are at this moment, that is, in a state in which it is doubtful whether they were really innocent or guilty.

Croker, an Irish Member, and Shaw Lefevre, once a lawyer, and now a country gentleman, also disapproved of the intended Bill; the latter, because it would impose a burthen on the county-rates, the fund out of which I had proposed that the compensation should be paid. Perceval expressed great doubt about the measure, but thought that leave ought to be given to bring the Bill in; and leave was given accordingly.¹

May 19th, Th. Colonel Stanley, at the importunity (as he told me) of some of his constituents, has brought in a Bill to increase the difficulty of paupers acquiring settlements in parishes, by raising the yearly sum at which a tenement must be rented to gain a settlement to considerably more than 10*l.*², and the consideration for the purchase of a freehold estate which will confer a settlement to more than 30*l.* I opposed the Bill very shortly; and, availing myself of so favourable an opportunity, stated what mischievous effects had arisen from the law of settlements; and that, in my opinion, the most beneficial act upon the subject that could be passed, would be one to abolish the law of settlements altogether; and that the next best act would be, instead of increasing the difficulties of acquiring settlements, to render the acquisition of them more easy; as, by making a six months' residence, under any circumstances, gain a settlement. Many other persons spoke against the Bill, and it was rejected by a very great majority.³

¹ The Compensation Bill was afterwards withdrawn.—ED.

² The Bill proposed to raise the yearly rent to 20*l.*; and the consideration for the purchase of a freehold estate to 100*l.* Hansard, vol. ii. p. 423.—ED.

³ The numbers were—in favour of the second reading of the Bill, 11; against it, 114.—ED.

[30th,] *Mon.* In a committee of the whole House on the Local Militia Bill, I spoke against one of the clauses, which required a person drawn and paying the penalty to make oath that no one had contributed anything towards enabling him to pay it. I endeavoured to impress, as forcibly as I could, upon the House, the mischiefs arising from the frequency of oaths which prevails in this country; how much it tends to make men think lightly of the obligations of an oath, and to increase perjuries. Windham and several other members also opposed it; and the clause was rejected.

June 2nd. I opposed so much of the Bill for giving pensions to retiring Scotch Judges as related to Barons of the Exchequer. The truth is, *Pensions to Scotch Judges who retire.* that there is so little law business to be done by the Barons, that their offices are rather nominally than really judicial; and the consequence of giving them pensions, on their retiring from what may be considered as being already a sort of retirement, will be, that bargains will probably be made with persons who have an expectation of preferment to the bench, to pay them an annuity of such an amount that, added to the pension from Government, it will make the retiring Judge's income just as large as it was before; and that persons, perfectly capable of discharging the very slender duties which belong to the office, will make way for others not at all more competent than themselves; and a very useless burden of expense will be fixed on the public.

15th. The House went into a committee on my Bill to repeal the Statute of Elizabeth; and a pretty long debate took place upon it. Burton, the Welsh Judge, began it. He objected to the Bill as it was framed; it being simply a repeal of the Statute of Elizabeth, leaving the offence mere larceny, punishable with only seven years' transportation. He thought that the Judges ought to have power to inflict a much severer punishment, extending to transportation for life; and, unless this alteration were made in the Bill, he said that he should vote against it. He stated that the crime of picking pockets had become

*Criminal Law.
Privately
stealing from
the person.*

extremely common, and was increasing; and mentioned that at Chester, where he sits as Judge, he had to try for this offence a great number of boys, who seemed to be educated to this way of life. This argument, that the crime was increasing, and that therefore there ought not to be any mitigation of the severity of the law, was also much insisted on by Plumer. It appeared to me, and I stated, that these were rather arguments for, than against the Bill. What better reason can be given for altering the law, than that it is not efficacious; and that, instead of its preventing crimes, crimes are multiplied under its operation? And if an alteration there must be, what can it be but to render the punishment less severe, but more certain in its operation? To add to its severity is impossible, since we already provide the same punishment for pickpockets and for murderers. Plumer observed that the utmost punishment which the Judges could inflict under the Bill as it stood,—namely, transportation for seven years,—was one of the most objectionable punishments that could be inflicted; that, when transportation was resorted to, it should be for a longer period, or for life; a seven years' transportation only rendering the criminal more hardened and depraved, and turning him loose, at the end of the seven years, a man more dangerous to society than he had ever been before. Upon this I observed, that if this were an accurate representation, some alteration in our punishments ought very speedily to be adopted; because, at present, three times as many offenders are transported for seven years as are transported for any longer period; and that it was an extraordinary argument for having recourse to punishments inordinately severe, that we had made a very injudicious choice of slighter punishments. I had, some time before, suggested to Abercromby¹ to institute an inquiry into the state of the colony of New South Wales, and efficacy of that species of punishment; a task which it is impossible for me, occupied as I am, to undertake without altogether abandoning my profession. Abercromby, who is always zealous in promoting objects of public utility,

¹ The late Speaker of the House of Commons, now Lord Dunfermline.—ED.

readily entered into my views; and he now took the opportunity, which this debate afforded him, of giving notice that he should early in the next Session move for a committee on the subject. I have the highest opinion of Abercromby, and think him likely to render most essential service to the country. He has a very enlightened mind, an excellent understanding, very just principles of political economy, an independent spirit, and a warm love of liberty; and he has the more merit because all his connexions are Tories. If I do not mistake, his brother married a daughter of Lord Melville.

Amongst other parts of the Bill, Plumer objected strongly to the preamble; which, however, was nothing more than this. It first recited the *Preamble of the Bill to repeal the Statute of Elizabeth.* Act of Elizabeth, and then went on in these words: "And whereas the extreme severity of penal laws hath not been found effectual for the prevention of crimes; but, on the contrary, by increasing the difficulty of convicting offenders, in some cases affords them impunity, and in most cases renders their punishment extremely uncertain. And whereas the Act herein-before recited hath, by the great diminution of the value of money, become much more severe than was originally intended." Plumer said that it was extremely dangerous to insert such abstract principles in Acts of Parliament, and to pronounce, by taking notice of the alteration which has taken place in the law by reason of the diminution in the value of money, a condemnation upon a great part of the law, as it at present exists, and is daily executed. Though I thought this a most futile objection, and that the preamble ought to stand, yet it was not of sufficient importance to risk the loss of the Bill. I consented, therefore, to its being struck out; and it was agreed that the Bill should be printed with Plumer's alterations and additions, and be recommitted on a future day.

Plumer told me that he had consulted several of the Judges, and that they approved his alteration of the Bill. He showed me a letter from Lord Ellenborough, in which he says that, if any alteration in the law were necessary,

of which he was by no means satisfied, he was clearly of opinion that the Judges ought to have a power of transporting for life. This did not surprise me. I knew the severity of Lord Ellenborough's disposition, and had therefore avoided consulting him before I brought either of the Bills in. I thought it proper, however (considering the great civility which he has always shown to me), to make him some apology for this omission ; and accordingly, in a letter which I wrote to him, I gave him the best reasons I could for it. His answer to me was in these words :—

“ My dear Sir,

“ I assure you that, if I had not received the favour of your note, I was not at all likely to have attributed the non-communication of your plan respecting the Criminal Law to any want of that attention and kindness which I have always experienced from you. Perhaps it was as well that you did not previously apprise me of your intentions, as you did not mean to communicate with the other Judges on the subject. I shall be happy to find your plan such as I may fully approve. If I should not, I shall, with great respect for its author, do that which my own impressions of duty may require of me upon the occasion ; as you will of course expect and wish that I should. I remain, with great respect and regard, my dear sir, very sincerely yours, ELLENBOROUGH.

“ Bly Sq^r, May 17th, 1808.”

If any person be desirous of having an adequate idea of the mischievous effects which have been produced in this country by the French Revolution and all its attendant horrors, he should attempt some legislative reform on humane and liberal principles. He will then find, not only what a stupid dread of innovation, but what a savage spirit, it has infused into the minds of many of his countrymen. I have had several opportunities of observing this. It is but a few nights ago, that, while I was standing at the bar of the House of Commons, a young man, the brother of a peer, whose name is not worth

setting down, came up to me, and breathing in my face the nauseous fumes of his undigested debauch, stammered out, "I am against your Bill; I am for hanging all." I was confounded; and, endeavouring to find out some excuse for him, I observed that I supposed he meant that the certainty of punishment affording the only prospect of suppressing crimes, the laws, whatever they were, ought to be executed. "No, no," he said, "it is not that. There is no good done by mercy. They only get worse; I would hang them all up at once."

16th. The House went into a committee on the Bill for imposing new Stamp duties. I opposed the new duty on all conveyances and assignments of property, the amount of which is to be in proportion to the consideration for the conveyance, on the ground that, as a tax on property, it was extremely unequal, since it would fall only on such property as the proprietors were obliged to sell; that it was a tax therefore on distress; that it would necessarily fall on the seller, because the buyer would allow for it, in calculating the price which it would be worth his while to give; that where estates were sold to pay debts, it would in many cases operate as an increase of loss to the creditors, it would be a deduction from the dividends they were to receive; that when coupled with the auction duty, it was grievously oppressive; and that estates which men were compelled by distress or insolvency to sell, they were generally compelled to sell by auction. These were arguments which it is hardly necessary to say made no impression on the committee.

The Act imposes new duties on law proceedings; particularly on warrants for attendances in the offices of Masters in Chancery. I intended fully to have resisted this, and to have stated the great injustice and the mischievous effects of imposing any taxes on judicial proceedings; but I lost the opportunity of doing it. Not imagining it possible that the Bill could pass through the committee in one night, I left the House about one o'clock in the morning. A very few of the clauses of the Bill had then been gone

through, and almost every clause had given rise to a good deal of discussion ; a great many clauses remained ; and the tax on law proceedings, being only in the schedule, was last to be considered. The next morning, however, I found that Perceval, whose object it is to hurry through the business as much as possible, had resisted the postponement of the further consideration of the Bill, and had insisted on its going through the committee, which was done at three in the morning, when very few members remained in the House.

I should afterwards have objected to this tax, upon the third reading ; but the Bill was read a third time on a subsequent day, in a very thin House, at two o'clock in the morning, when no one expected that it would come on ; though it is true that it stood, with a great many other Bills, as an order of the day. Many persons had clauses which they meant to propose ; but not having the least intimation that, at such an hour, this Bill would be selected from among the other orders of the day to be hurried through, they were prevented from doing so.

17th. The further proceeding on the question respecting the conduct of Lord Wellesley against Carnatic. The Nabob of the Carnatic was fixed for to-day. It had been fixed on Sheridan's account, who, after having again and again announced his intention of speaking on this question, had always deferred doing it. There were few persons in the gallery, and hardly more than forty members in the House. It was the two last of Sir Thomas Turton's series of resolutions which were to be disposed of. The first was put ; Sheridan remained silent ; no other member attempted to speak. The question was put ; a division took place ; and the motion was lost. The Speaker then proceeded to put the last question ; the same silence prevailed ; the votes on both sides were given ; and the Speaker was just about to declare that the motion was rejected, when I got up. I had intended to speak in the course of the debate which was expected, but I had no thought of taking the lead in it ; and nothing but my unwillingness to let the question be put, without stating the

sense I entertained of the flagrant injustice which had been done to the Nabob, could have induced me to take the part I did. I was, however, very well master of the case, and was able to show very clearly the flagrant violations of law and justice which had attended every part of the proceeding.* None of the Ministers had opened their lips upon the subject; but, by observing on their unaccountable silence, I forced Lord Castlereagh to rise, and to enter very fully into Lord Wellesley's defence; and a wretched defence he made for him. Sheridan spoke, but not at any length; and the question was lost.¹

21st. In the committee on the Scotch Judicature Bill, I resisted the clause which takes away appeals from the Court of Session to the House of Lords upon all interlocutory orders. The injustice of forcing suitors to go on with a cause till its final close, at great expense, and for many years to be spent in litigation, when a decision on an interlocutory question often decides the whole merits of the case, was so obvious, that I could not have thought it possible that such a provision could have received the approbation of any man accustomed to the proceedings either of an English Court of Equity or of the Scotch Courts of Justice. It had, however, it seems, the full approbation of the Chancellor. Upon my motion, an amendment was adopted, allowing the appeal upon interlocutory orders in all cases in which there is any difference of opinion in the Court.

22nd. A bill had been brought into the House to make the stealing of oysters from oyster fisheries felony, and was read a third time to-day. I opposed it, but without success. I thought the punishment too severe; and that, after what had been recently stated in the House, as to the inexpediency of

* I had intended to have taken a part in the debates upon the transactions respecting the Nabob of Oude, and had read all the papers; but just before the question was discussed, the decision of the Horsham Committee put me out of Parliament.

¹ By a majority of 78; the numbers being—for the resolution 97, against it 19.—ED.

Scotch Judicature appeals to the House of Lords.

Oyster stealing made felony.

transporting men for seven years for any offence, it was very unjustifiable to make that the punishment for new offences.¹

Parliament prorogued. *Privately Stealing Bill.* *July 4th.* Parliament was prorogued. The Bill I brought in to take away the punishment of death for the crime of privately stealing from the person passed, with the alterations Plumer had made in it, into a law. It is the 48 Geo. III. c. 129. In the House of Lords it passed without opposition, and without a word being said upon it.

Aug. 20th. Being determined to enjoy as much as possible of the long vacation, I left town the first moment that the business of the Court of Chancery would allow me. The Chancellor sat this morning, and in the evening I left town, and slept at Salt Hill.

I passed the vacation almost entirely at Knill. G. Wilson and Dumont spent a great part of it with us, and accompanied us in a very delightful tour down the Wye.

Bentham's Treatise on Punishments. Dumont brought with him to Knill several manuscripts of Bentham's, which he is translating and arranging, in order to publish them, as a continuation of the work of which he has already printed three volumes. One of them, a treatise on punishments, appears to me to have very extraordinary merit, and to be likely to be more popular than most of Bentham's writings, and to produce very good effects. I strongly exhorted Dumont to finish it without delay, and to publish it, if possible, in the ensuing winter; and he has promised to do so.* Since the work of Beccaria, nothing has appeared on the subject of the Criminal Law which has made any impression on the public. This

¹ On the same day, Sir S. Romilly opposed so much of the Copyright Bill as secured to the libraries of the Universities and other public libraries copies of all newly printed books and books reprinted with additions; on the ground, that it was unjust to lay upon authors the exclusive burden of a contribution which was not for their exclusive benefit, but for the benefit of the public at large.
—ED.

* It was afterwards published in July, 1811, in London, under the title of "Théorie des Peines et des Récompenses."

work will, I think, probably make a very deep impression.¹

¹ The following letter from Dr. Parr was received in the vacation of this year. It refers to the two Bills brought into Parliament by Sir S. Romilly in the preceding session; one to abolish the punishment of death for the offence of stealing privily from the person, the other to give to the judges a discretionary power of granting pecuniary compensation to persons who had been tried for felony and acquitted. See *suprà*, p. 84.—ED.

“ Dear Sir,

September 28, 1808.

“ I read your wise and interesting letter with great eagerness and great satisfaction, and I thank you for taking the trouble to write it. Fearing that you might be absent, I applied to Lord Holland, who sent me a copy of the statute. It confirms all the fears and all the hopes which the debates had excited in my mind, and it lies open to all the objections which I had put to paper. My good friend, the last conversation which I had with Mr. Fox turned upon our penal code, and upon the testiness and responsibility of Judges. Now, in something which I have printed about Mr. Fox, I could not fail to notice the fondness he had for trouncing your loquacious and quibbling brethren of the craft, and I was led to say a good deal of which he would have approved, in a note on our penal laws. I love them not, and I have not spared their principles, or the furred homicides who administer them. But all is done gravely, decorously, legally, morally, and sometimes, in obedience to the dictates of my own heart, even religiously. I have quoted our friend Jeremiah^a (the prophet of the law) again and again; and, as you lawyers may look upon a parson as an intruder, I have often called in the aid of allies from our writers on jurisprudence, such, dear sir, as you read and approve, such as I understand, and such as the sable bigots in Westminster Hall detest or disregard. Well, out comes your statute, or rather the debate upon it. My heart was gladdened, and I made very large additions to the note. In plain truth, I have spoken my mind upon all the general principles which this occurrence suggested. I do not approve of the power given to the court in fixing the quantum of punishments. You could not avoid it. After all, your achievement was noble, and I hope you will follow it up. I was very desirous to know what you had been doing in the inchoate statute, and your letter has relieved me in part from the apprehensions I felt, after a short and desultory chit-chat with the Solicitor-General. Come to our shop, say all the lawyers. Your prices, say I, are very high, your promises are big, your boasts are loud; but I can go nowhere else. Well, you may be the venders of the wares, but I fear you are often the spoilers of them, and I am sure you are not fit to be the manufacturers. There are certain raw

^a Jeremy Bentham.—ED.

Oct. 21st. Set out for Durham, and slept at Shrewsbury.

22nd. Chester; saw the new court there, and the jail, built partly on the panopticon principle.

25th. Arrived at Durham.

26th. Held my Chancery sittings there.

30th. In the evening, arrived at London.

31st. In the morning, the Lord Chancellor sat at Lincoln's Inn Hall.

Nov. and Dec. In the very few minutes that I have *Bankrupt Laws.* been able to command in the midst of business I have been preparing a Bill to remedy some defects in the Bankrupt law, which I shall probably

materials called good sense; there are certain arts in working them up called honesty and humanity; and here you are no dealers.

“ My friend, I can very easily conceive that you would be teased upon details in carrying the other statute into execution. Who is to fix the quantum of pecuniary compensation? Who is to pay it when fixed? Here objectors will prate; but I am provoked at the doubts which have been started upon the principle. If the laws create the inconvenience to innocent men, common sense and common justice seem to require that the very same laws by which their sufferings are occasioned, and their innocence has been proved, should provide for them speedy and plenary redress. Lawyers and philosophers deride us poor ecclesiastics for our dogmatism, our bigotry, our ignorance, our subtleties, and our intolerance upon certain mysterious subjects; but I will wager my best and largest wig against Lord Eldon's, and my best Greek folio against Lord Ellenborough's Abridgment of the Statutes, if your brethren of Westminster Hall are not a match for the Convocation in England, the General Assembly in Scotland, and even the Conclave at Room, in zeal about trifles, in attachment to dogmas, in faith in absurdities, in jealousy towards inquirers, and in a spirit of unrelenting persecution against all reformers. To be sure, you and five or six others whom I have the happiness to know, are illustrious exceptions to the general rule.

“ By the way, I have opposed Dr. Paley for calling in question the wholesome adage, that ‘ it is better that ten guilty men should escape than for one innocent man to swing.’ I trust that you are a faithful believer in the old mumpimus. I hope you will lay in a large stock of health and spirits during the vacation; and that, on the meeting of Parliament, you will co-operate with Sir A. Piggott in chastising Saint Perceval and Orator Canning for the Portugal convention. I beg my best compliments to Lady Romilly, and have the honour to be, dear sir, with the greatest and sincerest respect, your faithful friend and very obedient servant,

“ S. PARR.”

attempt to carry through the House in the approaching session¹. The defects, and the proposed remedy for them, I have long and frequently reflected on.

Dec. 21st. I dined to-day with the Duke of Sussex: the party consisted only of Sir A. Piggott, *Duke of Sussex.* Richards, the King's Counsel, the Recorder of

London, Dillon a barrister, and Richards the Duke's solicitor. We dined at an hotel in Bond Street, where the Duke receives his visitors. The object of our meeting was that the Duke, who has been lately attacked in a number of anonymous publications, might state his case to us, and communicate to us a memorial which he has lately presented to the King. He had no advice to ask us; and there was no step to be taken by any of us. His Royal Highness said that he merely wished that we should be apprized of his situation.

Dec. 28th. I this day, by the desire of the Duke of Kent, waited on him at Carlton House. He said that *Duke of Kent.* he wished to consult me, not professionally, but rather as a friend, on a point on which some difference of opinion existed amongst those persons whose judgments he most highly valued. A publication had very recently appeared by a person of the name of M'Callum, professing to state the persecutions which he, the Duke, had experienced at the hands of the Duke of York. It had been thought advisable that he should publish a disavowal of any privy in the publication; and he put into my hands a paper which had been drawn up for the purpose. All his friends, except his secretary, Major Dodd, advised him to publish it; and he was desirous, in consequence of the Prince of Wales's recommendation, to take my opinion upon it. The paper which he gave me, and which he desired me to take home with me, and to consider at my leisure, was in these words:

“ The Duke of Kent requests the Editor of the *Morning Post* to give insertion to the following paragraph:—

¹ See *infra*, p. 102.—ED.

" Kensington Palace, Dec. 24th, 1808.

" Several pamphlets having recently appeared, in which my name has been mentioned with high encomiums, while those of several members of my family, and of various other individuals, have been noticed in terms of abuse; and having reason to apprehend (from the circumstance of several extracts and dates of two correspondences that took place between the members of his Majesty's government and myself in 1803 and the present year being quoted in different parts of them) that a belief is entertained by persons who are unacquainted with my real sentiments that I have sanctioned the publication of them; I feel it incumbent upon me, for the justification of my character to the world (although it is extremely repugnant to my feelings to be obliged thus to obtrude myself on the attention of the public), to adopt this mode of solemnly and unequivocally declaring that there is not the slightest foundation for so ungenerous a suspicion. At the same time I conceive it right to avow that I certainly did give free circulation to the whole of the one correspondence alluded to, and to the substance of the other, accompanied by an extract of some of the most striking passages in it, and a memorandum of the dates amongst my military friends, at the periods when they respectively closed; that being the only method left me of proving to them, and to every officer of the British army (who, having served under me in North America, the West Indies, and the Mediterranean, had witnessed the manner in which I have ever strove to discharge my duty), first, that I had spared no pains to obtain an investigation of my conduct at Gibraltar, when, after commanding in that fortress for a twelvemonth, I was recalled from my government, for the avowed purpose of rendering an account of the causes that had led to the mutiny; and, secondly, that, if I was not at my post, as I felt I ought to be, it was not for want of my making every possible exertion to return to it. But it never even once entered my thoughts that any part of the correspondence might one day or other appear in

print ; and still less that it would furnish materials either for the public commendation of myself or for the abuse of others. On the contrary, my opinion always has been that pamphlets of the nature of those alluded to could do no good, while they certainly have a tendency to produce much mischief; and, such being my sentiments, I should be the last man living to give a sanction to the publication of them."

It required but little consideration to determine against the publication of such a paper. The Duke told me, however, that he wished me to consider it maturely; and, if I was against the publishing it, to write him a letter saying that such was my opinion, and shortly to give my reasons in my letter, and to send it to him at Kensington Palace. He desired me too, to consider, whether, if this paper were not proper to be published by him, it might not be right for him to publish some other. He said that he should be governed entirely by my opinion; and that he wished to have a letter from me, to show to those of his family who were urgent with him to publish a disavowal of the pamphlet. The part of his family who were so urgent with him, were those who were most attached to the Duke of York. He begged that in the letter I would not mention the name of Major Dodd. I took my leave of him, and the next morning sent him a letter in these words :—

"Sir,

"Your Royal Highness having done me the honour to ask me what I thought of the propriety of your Royal Highness authorising the publication, in some of the daily newspapers, of the paper which I have now the honour to return enclosed; I have given it the best consideration in my power; and I have read attentively the pamphlet to which it principally alludes. It appears to me, Sir, after thinking very anxiously on the subject, that it would not be by any means advisable that the paper in question should be published, or, indeed, that your Royal Highness should authorise the publication of any paper that could be written for the purpose

of disavowing any knowledge of the pamphlet. Your Royal Highness, by condescending to take notice of the suspicion that it may have been with your Royal Highness's privity that the pamphlet has been published, would give a degree of weight, and importance, and publicity to that suspicion, which I am fully persuaded it has not at this moment obtained. The tone and spirit of the pamphlet must alone convince every rational man that it has never received any sanction from your Royal Highness; and no inference, to the disadvantage of your Royal Highness, can be drawn from the mere circumstance of the writer having had access to the correspondences which took place in 1803, and in the present year; since it is known that your Royal Highness did not make those correspondences matter of secrecy; and, consequently, it must have been impossible to prevent some copy of them getting into improper hands. If any paragraph upon the subject were to appear under your Royal Highness's name, it would necessarily have the effect of giving a very extended circulation and a considerable degree of weight to an imputation, which, as far as the public is concerned, I really believe cannot truly be said at present to exist. It seems to me, Sir, that it must be some very extraordinary occasion indeed that could render it expedient, even for a private individual, and much more for a person of your Royal Highness's exalted rank, to make such an appeal to the public as the paper would amount to; and, by that means, to expose himself to all the animadversions, inquiries, attacks, and provocations to further explanations which such appeals seldom fail to produce, and which they may be said in some degree always to challenge; and I am most fully convinced that this is not such an occasion. I have the honour to be, &c. &c.

"Dec. 29, 1808."

I have heard nothing since from the Duke; but I believe he has abstained from publishing anything.

1809.

Jan. 19th, *Th.* Parliament met. It had been intended that it should meet on the Monday preceding, the 16th, and Parliament had been prorogued to that day, and a proclamation, that it would then meet for the despatch of business, published. But, upon the pretence that, if it met on Monday, many members would be obliged to travel on a Sunday, to the profanation of the Sabbath, a further prorogation for three days, to the 19th, was made.

Lord Grenville in the House of Lords, and Ponsonby and Whitbread in the Commons, spoke in terms of strong censure of the conduct of Ministers; particularly of their military plans in Spain and Portugal, and their conduct towards America; but no amendment to the address on the King's speech was moved in either House.

Feb. 1st, *Wed.* I this day brought a Bill into the House of Commons to extend the benefit of the Lords' Act (the Statute 32 Geo. II. c. 28) to the case of prisoners in custody for not paying money or costs ordered to be paid by Courts of Equity. The Lords' Act, with the extension it has received by the Statutes 33 Geo. III. c. 5, and 37 Geo. III. c. 85, enables debtors taken in execution for sums not exceeding 300*l.*, by giving up everything they are possessed of to their creditors, to entitle themselves to a subsistence from the creditor at whose suit they are imprisoned, at the rate of sixpence a day, or, if this be not paid, to be discharged. These acts extend, however, only to legal, and not to equitable debts. To extend them to persons owing equitable debts, and imprisoned in form for a contempt of court, but in substance for not paying such debts, is the only object of the Bill. It will probably meet with no opposition. It has been observed to me by the Solicitor-General and by several other persons, that there are but few such prisoners. I do not at all know what their numbers are; probably they are very

The Lords' Act extended to prisoners committed by Courts of Equity.

few, when compared with the multitude of debtors imprisoned under legal process, with which our jails are crowded; but, if I can procure liberty for only two or three persons every year, I shall be well satisfied.

This Bill passed through the House of Commons without opposition.*

March 1st, Wed. I moved for and obtained leave to bring into the House of Commons a Bill to alter the Bankrupt Laws; and on

3rd, *Fri.* I brought in the Bill, and it was read a first *Bankrupt* time, and ordered to be read a second time *Law.* on the 29th instant.

The intention of the Bill is to remedy some of the principal defects in the Bankrupt Law. 1st, To provide for the proof of debts which cannot now be proved; such as debts due to sureties and to persons liable for the bankrupt. 2nd, To prevent assignees keeping the bankrupt's estate in their own hands and employing it for their own benefit. 3rd, To diminish, in some degree, the expense of proceedings under Bankruptcy. And 4th, To take from creditors the power which they now have, without appeal or control, of withholding from the bankrupt his certificate, and, by that means, exposing him to be perpetually imprisoned for not paying debts which it is impossible (unless he has committed a capital felony) that he should have the means to pay.

13th, *Mon.* This was the fourth day of the debate in *The Duke of York.* the House of Commons on the conduct of the Duke of York.¹ It had lasted Wednesday,

* Nor did it meet with any opposition in the House of Lords. It received the Royal Assent on the 13th of March.^a

^a The Act is the 49 Geo. III. c. 6.—ED.

¹ The conduct of the Duke of York in the disposal of commissions and promotions in the army was brought before the House of Commons on the 27th of January. On that day Colonel Wardle moved for the appointment of a committee to investigate the charges against the Duke, and on the motion of Perceval (Chancellor of the Exchequer,) it was determined that it should be a committee of the whole House. The examination of witnesses at the bar of the House commenced on the 1st of February, and after having occupied

Thursday, and Friday last, till between two and three o'clock in the morning each day, and the further debate was adjourned to this day. I took part in this day's debate by supporting, in a speech of some length, Colonel Wardle's motion for an address to the Crown to remove the Duke from the command of the army.

When Wardle first stated to the House the facts of which he had received information, and moved to refer them to a committee, scarcely anybody imagined that he would be able to establish any of them by evidence. Indeed, there is great reason to believe, notwithstanding the proofs which in the sequel appeared, that the accusation would have proved wholly abortive, had it not been for the presumption and rashness of the Ministers. In their foolish confidence that no charge could be substantiated, and that they should serve the Duke by a public refutation of what they termed infamous calumnies, they insisted, contrary to Wardle's wishes, that the matter should be referred, not to a select committee, but to a committee of the whole House, in order that all the witnesses might be examined publicly.¹ It was obvious that such a proceeding must be most mischievous to the Duke. Though no violation of the law might be established against him, yet the mere exposing to the public that he, who was mistakenly supposed

twelve days closed on the 22nd of February. On the 8th of March, the evidence was taken into consideration by the House, and a very long debate ensued, which was prolonged, by successive adjournments, to the 17th of March; and on that day a resolution, moved by the Chancellor of the Exchequer, acquitting the Duke of personal connivance with the corrupt practices, the existence of which had been fully proved at the bar of the House, was carried by a majority of 278 to 196. On the following day, 18th of March, the Duke of York resigned the command of the army, and on the 20th of March the House determined to proceed no farther in the matter.—ED.

¹ Mr. Perceval (Chancellor of the Exchequer) had moved, on the 27th of January, that the matter should be referred to a committee of the whole House, and his motion was supported by the two secretaries, Mr. Canning and Lord Castlereagh. In the course of his speech, Mr. Perceval said that "he would stake his reputation upon it, that it was impossible that, after the result of the inquiry, any suspicion even could attach to his Royal Highness." See Hansard's Parliamentary Debates, vol. xii. p. 196.—ED.

by most persons to be leading a moral, decent, and domestic life, was entertaining at great expense a courtesan, the wife, too, of another man, and a woman who had risen from a very low situation in life, could not fail to do him irreparable mischief in the public estimation. But, in the course of the inquiry, from the bad management and unskilful conduct of the Duke's friends, new matter of a very criminal nature, which had never been stated by Wardle, presented itself to the House. Written evidence and documents, not known to be in existence either by Wardle or by the principal witness, Mrs. Clarke, were discovered, and produced by the witnesses who appeared for the Duke; and these did his Royal Highness more mischief than anything that was said by the witnesses against him. It was established, beyond the possibility of doubt, that the Duke had permitted Mrs. Clarke, his mistress, to interfere in military promotions; that he had given commissions at her recommendation; and that she had taken money for the recommendations. That the Duke knew that she took money, or that he knew that the establishment, which he had set on foot for her, was partly supported with the money thus illegally procured by her, did not appear otherwise than from her evidence. She, however, asserted the fact directly and positively; and her evidence was supported, in many other particulars which seemed the most incredible, by such strong corroborations, that her immoral character, her resentment, and her contradictions, were not sufficient to render her evidence altogether incredible. There was not evidence sufficient to convict the Duke of the crimes imputed to him; but, undoubtedly, there was evidence sufficient to charge him with them; and it is to me matter of astonishment that any considerable number of members should be brought to concur in the resolution which Perceval has stated that he intends to move; namely, that there is no ground to charge the Duke either with corruption, or with connivance at the corruption of Mrs. Clarke.

I took no part while the inquiry was going on, except that, upon the examination of Captain Huxley Sandon, who had suppressed a very important note in his possession,

written by the Duke of York, relating to Captain Tonyn's promotion, I endeavoured, by some questions I put to him, to discover whether the note was not still in existence, and could not be obtained. Particularly I asked him whether, if a messenger were immediately sent with him to his house, he would not be able to find it. He had begun by denying that the note existed ; and then stated that it had existed, but was lost ; next doubted whether he had not still got it ; and at last admitted that it was safe at his house ; and, being committed to the custody of the Sergeant at Arms, and sent in that custody to look for it, actually produced the note before the House rose. In another instance, too, I took some part in the proceeding ; it was, to object to the House receiving the evidence of persons from the Post Office and the Bank, to prove, by a comparison of hands, that this note was not written by the Duke. My objection was overruled by the House ; and, in the anxious desire which a majority of the House had to find any pretext for doubting the fact of the note being the Duke's, they agreed to receive this most dangerous species of evidence. In no Court of Justice, I believe, had it ever been even attempted to prove, *by a comparison of hands*, that a paper imputed to any individual was not his hand-writing.

Entertaining a very strong opinion against Perceval's proposed resolution, and in favour of Wardle's address, I thought it my duty to express that opinion ; and I did it to-day to the best of my ability, and in a way which seemed to make some impression on the House. I knew very well that, in taking this part, I was not acting much more agreeably to the late than to the present Ministry ; and that I was provoking the strongest resentment of all the persons upon whom my ever being in office must depend. The King took the strongest possible interest for the Duke. The Prince of Wales had, in a letter written to Adam, at the moment of the matter being first brought before the House, and which Adam showed me, stated that he considered an attack upon the Duke as an attack upon himself. It is true that, as the inquiry proceeded, and the Prince observed the very strong impression

against the Duke which the evidence had made on the public, he withdrew his support from the Duke, and affected to remain in a state of neutrality. Still, however, there could be no doubt that he saw with great uneasiness the turn which the matter took, and that his neutrality arose only from an apprehension of drawing on himself some share of the popular odium, by seeming to espouse the cause of the Duke. That the Duke may himself, at one day, ascend the throne, is an event by no means improbable.

- I had fully considered all this, when I determined not to shrink from my duty, and to give my most sincere opinion to the House. I and Henry Martin were the only lawyers in the House who spoke against the Duke. Amongst his advocates in the House were the Master of the Rolls, the Attorney-General, the Solicitor-General, the Lord Advocate, the Solicitor-General of Scotland, the Judge Advocate* (Ryder), two Welsh Judges (Burton and Leycester), and Adam and Leach. I ought, however, in justice to the profession, to observe that, as far as I have been able to learn, there was as great a majority of lawyers out of the House against the Duke as there was in the House in his favour.

There is nothing so injudicious as to talk, in the House of Commons, of a man's own disinterestedness. It is the topic which the House, with great reason, hears dwelt on with the most impatience. I thought, however, that I might, on this occasion, be allowed to observe, that my vote did not concur with my interest; and I concluded my speech with these words: "It has been observed by a learned gentleman (Burton) in this debate, at the close of

* It was curious to observe, how many of the persons who argued for the Duke were men holding offices; besides those who are here enumerated, there were the Chancellor of the Exchequer,¹ the two Secretaries of State,² the Secretary at War,³ the Treasurer of the Navy,⁴ and one of the Paymasters.⁵

¹ Right Honourable Spencer Perceval.

² Right Honourable George Canning and Lord Castlereagh.

³ Sir James Pulteney.

⁴ Right Honourable George Rose.

⁵ Right Honourable Charles Long.—ED.

his speech, that he has nothing to hope for or to fear on this side the grave. I cannot say the same thing. Not labouring under the same affliction that he does, and not arrived at the same period of life,* I may reasonably be allowed, for myself and for those who are most dear to me, to indulge hopes of prosperity which is yet to come. Reflecting, too, on the vicissitudes of human life, I may entertain apprehensions of adversity and of persecution, which perhaps await me. I have, however, the heartfelt satisfaction to reflect, that it is not possible for me to hope to derive, in any way, the most remote advantage from the vote which, on this occasion, I shall give, and from the part which I have thought it my duty to act."

I have been told by several persons that, after making such a speech, I must give up all hopes of ever being Chancellor. I am not quite sure of that; but of this I think I may be sure, that if ever, after the part I have now taken, I should be raised to that situation, it will not be in expectation that I shall act in it otherwise than as an honest man. It certainly is not probable that I should receive such a promotion; nothing perhaps can be more improbable; but if, contrary to all expectation, it should happen, the promotion will be more honourable to myself, and more honourable to the person to whom I shall be indebted for it, than it possibly could have been if, upon this occasion, I had adopted a different line of conduct. It follows, from these observations, that I was not quite correct in saying that I could derive no possible advantage from the vote which I gave. This is perfectly true; but, when I used those expressions, I neither meant, nor I believe was understood by any one, to be speaking of such an advantage as I here allude to.¹

* He is blind, without children, and near seventy years of age.

¹ The following extract from a letter of Sir Jas. Mackintosh, dated 15th Oct. 1809, refers to the part taken by Sir S. Romilly in the investigation into the conduct of the Duke of York.—ED.

“I envy Romilly neither his fortune nor his fame, though I am likely to be poor and obscure enough, but I do envy him so noble an opportunity of proving his disinterestedness. If his character had been in the slightest degree that of a demagogue, his conduct

15th, *Wed.* The debate was continued to this day, being in the whole six days; and, at five o'clock in the morning of Thursday, the 16th, the first division took place.

Mr. Bankes had proposed an address different from Colonel Wardle's, but yet for the Duke's removal. From the mode in which the questions had been put (viz. of an amendment to leave out the whole of Wardle's motion, except the first word "That;" and then an amendment, moved by Bankes, of that amendment), the first question put was in substance whether there should be an address or merely a resolution; and, all the supporters of both addresses united, the numbers were, for an address, 199; against it, 296.² Bankes's amendment being thus lost, the next question was on Perceval's amendment, which was, to strike out the whole of Wardle's address: for this question, the Ayes were 364, the Noes 123. The further consideration of the subject was then adjourned to Friday; and, on

17th, *Fri.* Perceval moved his resolution, that it was the opinion of the House, that the evidence reported to it afforded no ground for the House to charge the Duke of York, in the execution of his official duties as Commander-in-chief, with the personal corruption alleged against him in that evidence, or with any connivance at the corrupt and infamous practices which are therein disclosed.

To this, Sir Thomas Turton moved, as amendment, that, in the opinion of the House, there was ground to charge his Royal Highness with knowledge of the corrupt practices disclosed in the evidence. On this amendment might have been ambiguous; but, with his habits, it can be considered only as a sacrifice of the highest objects of ambition to the mere dictates of conscience. I speak so because, though I trust that he will not lose the great seal, yet I am sure he considered himself as sacrificing it; and to view it in any other light, would be to rob him of the fame which he deserves.

"I beg you to communicate, either directly or indirectly, to Romilly my sentiments on his conduct, and remember that my anxiety is not to do him any honour, but to do myself justice."

² Tellers included.—ED.

ment, the numbers were, for it, 135; against it, 334. Perceval's motion then being put, the numbers were, Ayes, 278; Noes, 196.

I voted in the minority upon all these questions. The further consideration of the report was adjourned to Monday.

18th, *Sat.* The Duke of York this day resigned the command of the army.¹

20th, *Mon.* Mr. Bathurst moved a resolution which he had before stated, on the conduct of the Duke of York; but his motion was got rid of by an amendment moved by Lord Althorp, and carried, in these words: "That the Duke of York having resigned the command of the army, the House does not think it necessary to proceed any farther in the consideration of the minutes of the evidence, so far as they relate to his Royal Highness!"²

29th, *Wed.* The Bill for amending the Bankrupt Law was read a second time, without any opposition; but Mr. Jacob, a merchant, announced some opposition to different clauses of it in the committee.

My conduct respecting the Duke of York has procured me a letter from Major Cartwright, enclosing a *Parliamentary* list of stewards of a public dinner intended to be *Reform*. held at the Crown and Anchor Tavern by the friends of Parliamentary Reform. The letter, which is dated March 25th, begins in these words: "Dear Sir,—The enclosed would not have been submitted to you at all, had you not, while others by their prostitution were rendering your profession hateful to the nation, redeemed its honour, and secured to yourself the public veneration, by a conduct that must have placed between yourself and the objects of an honest ambition a bar which never can be removed but by a truly public power. Believing, therefore, that, were you thus early to join the small rallying band of par-

¹ The Duke of York was re-appointed to the command of the army by the Regent, in May, 1811.—ED.

² A division took place upon the question, whether the word "now" should, as proposed by Lord Althorp, be inserted after the words "the House does not;" and it was decided by a majority of 235 to 112, that the word "now" should be omitted.—ED.

liamentary reformers, it would add nothing to the strength of that bar of your own placing, while it might naturally be expected to augment the force which will one day be wanted to its removal, I am induced to express a hope that I may be allowed to inscribe your name," &c. Many arguments are then used to prove the expediency of such a measure, and the advantage which the writer supposed would result from having my name among the stewards. I was formerly acquainted with Major Cartwright, but for the last twenty-five years I have hardly had any intercourse with him. I returned him an answer in these words:—

“ Dear Sir,

“ March 28, 1809.

“ I trust that I need hardly assure you, that my opinion on the subject of a reform of Parliament is not at all altered; but yet I cannot consent to be one of the stewards of the dinner which is to take place; nor indeed is it my intention even to be present at that dinner. Upon whatever questions come before the House of Commons, while I have a seat in it, I shall vote and speak as I think my duty and the good of the country require, without caring whom such a conduct may please or may offend. But I have a very great aversion to acting any conspicuous part, or putting myself forward in any way, out of the House, upon any public measures. I cannot think that there is any sufficient reason for my adopting, at the present moment, a different line of conduct from that which I have hitherto thought it right to pursue. The tenor of this letter sufficiently shows that I wish it to be considered as private and confidential; and I cannot conclude it without assuring you of the very great satisfaction it affords me to find that my public conduct has met with your approbation.”

31st. I set out to-day, with Anne and one of my children, for Hastings, in Sussex, to recruit my strength with the sea air, after the fatigues I have lately undergone. We stayed there till the 10th of April.

April 15th. If I were much delighted with what is

usually understood to be popularity, I should lately have had great enjoyment. I have had voted *me, together with Sir Francis Burdett, Lord Folkestone, Whitbread, and General Ferguson,* *Votes of thanks in popular meetings.* thanks for my conduct upon the late inquiry respecting the Duke of York, in a great many popular meetings: amongst others, by the Livery of London, in their Common Hall; the Common Council of London; the inhabitants of Westminster; the inhabitants of Southwark; the freeholders of Middlesex; the Corporation and inhabitants of Nottingham; and the town of Norwich.* It has been necessary to acknowledge the receipt of some of these resolutions of thanks, when they have been formally communicated to me. My answer to the town-clerk of London was as follows:—

“Sir,

“Lincoln’s Inn, April 15, 1809.

“I yesterday received your letter of the 8th inst., enclosing the resolutions of the Livery of London, in Common Hall assembled, and a resolution of the Common Council of the City of London. Nothing can be more gratifying to me than to find that my conduct as a Member of Parliament, upon the late inquiry in the House of Commons, has met with the approbation of the Livery, and has been thought by the Common Council deserving of their thanks. Such flattering distinctions have not, however, had the effect of making me exaggerate to myself the merit which belongs to me. I am sensible that the only praise I can claim is that of having done what I conceived to be my duty. Viewing the case in the light in which I saw it, I should have been highly culpable if I had taken any other part than I did. I shall think my-

* And soon afterwards by Sheffield, Worcester, Carmarthen, Reading, Liverpool, Lewes, Maidstone, Doncaster, Shaftesbury, Wycombe, Coventry, Berwick, Hampshire, Hertfordshire, Norfolk, Wiltshire, Bristol, Bolton, and Huddersfield. In all these places, and others, whose names I do not recollect, I was thanked by name. There were many other places which returned thanks to Mr. Wardle, and to the 125 who voted with him.¹

¹ On the 15th March.—ED.

self, sir, greatly obliged to you if you will have the goodness to express to the Common Council and to the Livery how grateful I am for the very high honours they have conferred on me."

My other letters, on the same occasions, were, in substance, pretty much the same as this. The resolution of the Livery would have justified, and might perhaps be thought to have called for, some answer as to what I intended to do in future, for it was in these words:—"Resolved, that they do highly approve of the conduct of Sir Francis Burdett, Lord Folkestone, Samuel Whitbread, Esq., Sir Samuel Romilly, General Ferguson, and the rest of the 125 honest and independent members who supported Mr. Wardle's proposition on the 15th of March, 1809; and trust that, uninfluenced by party or feelings of interest, they will support every measure calculated to remove abuses and root out corruption;" and I knew that it was much wished that the persons named in the Resolution should, in their answer, say something about the general system of corruption which is so prevalent. I determined, however, not to please them in this particular. The very persons who inveigh most bitterly against party are, in truth, making the conduct of the Duke of York, and the late proceedings which it gave rise to, the means of acquiring strength to a party which is becoming very formidable, and which, I have no doubt, makes the correction of abuses only a cover for promoting much greater designs.

Some of the Liverymen of London have agreed to have a public dinner, and to invite to it Colonel Wardle, and the other persons named in the City resolution of thanks and approbation. Mr. Waithman, a common councilman, who has much distinguished himself in the City on the popular side, came, with three other gentlemen, to my house as a deputation from the Livery, to invite me to the dinner; and, not finding me at home, wrote me a letter of invitation. I determined not to dine with them, thinking such a sort of public festival on such an occasion highly improper; and I therefore answered Mr. Waithman's letter thus:—

“Sir,

“Russell Square, April 14th, 1809.

“The honour which the Livery of London, who intend dining together at the London Tavern, *My Letter to Mr. Waithman*, on the 21st inst., have done me of inviting me to their dinner, is one which is extremely flattering to me, and for which I am very grateful. It would give me the greatest concern if my declining to accept their invitation could be construed by any one into a mark of disrespect to the Livery, or to any of the members of that most respectable body; but that, I persuade myself, must be impossible, when my reasons are known. I voted against the Duke of York, because I could not, as an honest man, vote otherwise. I thought it did not become me to give a silent vote upon such a question, and I therefore spoke as well as voted. Seeing the case in the light in which I saw it, to have acted otherwise than I did, I must have been base enough to have deserted my public duty upon a most important occasion, from the mean apprehension that to discharge my duty might be attended with personal disadvantages to myself. If there be much merit in not having been actuated by such unworthy motives, (which I cannot think, but if there be,) that merit I certainly may pretend to. But, though I consider the late proceedings in the House of Commons as being of the highest importance, yet I cannot think that the result of them is that which ought to be celebrated by a public dinner. So many persons, for whose opinions I have the utmost deference, think differently from me on this subject, that I cannot but very much distrust my own judgment. But it is by my own judgment that I must regulate my own conduct; and, with the opinion which I entertain, it certainly would not be proper for me to be present at such a dinner. I shall consider myself, Sir, as being under great obligations to you, if you will have the goodness to state to the gentlemen by whom you have been deputed, what my reason is for declining the honour intended me; and to say, that I decline it most reluctantly, and with most sincere regret; for no man can set

a higher value than I do on the approbation and applause of the Livery of London.

“I am, Sir, &c.

“Robert Waithman, Esq.”

“S. R.

17th, *Mon.* Lord Folkestone moved for a committee to inquire into the corrupt disposal of offices in the State. The motion was rejected.¹ I happened to be absent.

19th, *Wed.* The Bill to amend the Bankrupt Laws went *Bankrupt Laws.* through the committee. It had been committed on Friday, April 14th; but so many objections were made to so many clauses in it, that the further proceeding was adjourned to this day; and it was twelve o'clock at night before it was gone through. The principal, or I may say the only, opposers of the Bill were the Attorney and Solicitor-General. They opposed most of the clauses, and suggested a number of difficulties; really, as it should seem, only to show their vigilance when any innovation was attempted. The clauses they principally opposed were, that to enable the proof of debts by sureties; that to enable a certificated bankrupt to be a witness for his assignees, though he has not released his allowance, and the surplus of his estate; and that which gives the bankrupt a power, after his creditors have refused to sign his certificate for two years, of appealing to the Chancellor. To the second of these clauses* the objection insisted on by both the Attorney and Solicitor General was, that it broke in upon a principle of the law of evidence. It certainly does; and it is a principle I was very glad to break in upon. The executing releases, to make a witness competent, is a mere fiction. The release it is intended should be given up as soon as the cause is over, in which case it is a deception; or, if the transaction is real, the witness purchases the right of giving evidence; and he is considered as a disinterested and a competent witness, from the very circumstance which proves how

* This clause was struck out in the House of Lords.

¹ By a majority of 148; the numbers being, 178 against Lord Folkestone's motion, 30 in favour of it.—ED.

deep an interest he takes in the cause. In the case of a bankrupt, this objection is stronger than in any other case, because a bankrupt who releases his allowance, releases all that he can lawfully have in the world. He consents to give up all he is possessed of to be allowed to become a witness. The clause respecting certificates was opposed by them, principally on the common grounds, that we are a very humane nation ; that creditors are more proper objects of compassion than debtors ; and that the instances of indulgent creditors were very numerous, and those of oppressive and cruel creditors very rare. My experience does not justify this observation ; but, without cruelty, the mere indifference and carelessness of the creditor about the fate of his debtor, whom he has once lodged in prison, is alone the cause of great suffering and misery. The indifference of the nation upon such subjects cannot be more strongly manifested than it was by the very thin attendance which there was upon this Bill. On the second reading, and on both days of the committee, the number of members who attended was not nearly sufficient to make a House ; and any member who had chosen to count the House, or call for a division, might have delayed any further proceeding. The Bill, however, passed through the committee without one clause being rejected. One clause was added in the committee by the Solicitor-General, and another by Sir Charles Price, one of the City members, which are of little importance.

28th, *Fri.* The Bill passed in the House of Commons.*

May 11th, *Th.* Mr. Madocks moved, to-day, in the House of Commons, that an inquiry ^{*Sale of seats in*} should be made into the conduct of two of the ^{*Parliament.*} Ministers, Lord Castlereagh and Perceval, in having procured a seat in Parliament for a Mr. Quintin Dick for a sum of money, and having afterwards endeavoured to influence his vote upon the inquiry respecting the Duke of York ; and having, as he would not vote according to their wishes, intimated to him that he ought to give up his seat,

* Certain alterations and additions were made in this Bill by the Lords, which were agreed to by the Commons, and it passed into a law. See *infra*, pp. 123, 124.

which he accordingly did. All the members of the late administration opposed the motion. I voted for it, and was in a minority of 85 against 310. It was said that such things have been done by all administrations. It may be so ; but it seems impossible that when the notice of Parliament is drawn to them, it should not condemn them. In this case, too, the particular occasion on which the influence was exercised over the member, made it, in my opinion, a most aggravated offence. The very ministers who were charged with so exerting their influence, were among the foremost to observe, in the debate on the Duke of York, that the proceeding was purely judicial.¹ The offence, therefore, was no less than obliging a magistrate to resign a judicial office, because he was about to decide a cause as his conscience dictated, but as Ministers disapproved. The conduct of the late Ministers, considered merely with a view to their own interest, is highly impolitic. Nothing that could be proved against them will do them more injury in the public opinion than this screening of political offences, through fear of recrimination. The decision of this night, coupled with some which have lately taken place, will do more towards disposing the nation in favour of a parliamentary reform * than all the speeches that have been or will be made in any popular assemblies.

12th, *Fri.* Perceval opened the Budget, and, as a lottery

* Cobbett has since, in his exaggerating style, said of this decision and the debate which preceded it, "that it involved in its consequences of ten million times more importance to England than the fate of all the expeditions, all the armies, and all the fleets in the world ; and that the charge and the decision should be printed in all Almanacks, Court Calendars, Books of Roads, &c., to be continually in the eye of the public." Cobbett's Register, May 20.

¹ The Chancellor of the Exchequer, in his speech, delivered on the first day of the debate, said,—“Upon such a charge, when once made against such a character, I cannot doubt but the House will feel it their indispensable duty to pronounce a direct, a decided, opinion. Is he (aye or no), upon the charge of corruption, guilty or not guilty? That is the question proposed to us,—the question from which we cannot shrink,—the question which we must decide.” See Hansard's Parliamentary Debates, vol. xiii. p. 54.—ED.

was amongst his resources for the year, I followed Whitbread and Wilberforce in opposing it, on account of the misery and the crimes which lotteries produce.

18th, *Th.* The lottery came again under discussion. Whitbread, Windham¹, Wilberforce, and myself, spoke against it. The only persons who defended it were Perceval and Sir Thomas Turton; upon a division, the numbers were, for it 90, against it only 36. I was one of the tellers.

Perceval's plan is to have the lottery drawn in one day, which he thinks will prevent insurances; and he contends that it is from insurances alone that all the evils attendant on lotteries arise. This is calculated just for the present, and when a strong impression has been made on the public by the report of the Committee, to reconcile men to lotteries, by taking away some of their evils. In a few years, when the report is forgotten, we shall have lotteries again upon the old plan. Much evil arises from insurances, but not by any means all the evil which lotteries produce.

26th, *Fri.* I moved in the House of Commons for returns of the number of persons convicted of *Criminal law* offences from the year 1805, with their sentences; and the number transported to Botany Bay, from the first formation of the colony. At the same time, I gave notice, that I should, early in the next session, propose some alterations² in the Criminal Law, to lessen the severity, and increase the certainty of punishment.

June 9th, *Fri.* The Attorney-General³ has had a Bill some time depending in the House of Commons, which he called a Bill to amend the Act ^{*Seditious meetings Bill.*} of 39 Geo. III. c. 79, for the suppression of seditious meetings. He represented it as a Bill of little im-

¹ The two concluding sentences of Windham's speech, as given in Hansard's Parliamentary Debates, vol. xiv. p. 623, afford some ground for concluding that, although generally opposed to lotteries, he did not vote against them on this particular occasion.—ED.

² These alterations were proposed on the 9th of February, 1810. See *infra*.—ED.

³ The Attorney-General (Sir Vicary Gibbs) had moved for leave to bring in this Bill, and had explained its object on the 18th of May. See Hansard's Parl. Deb. vol. xiv. p. 615.—ED.

portance, which was merely to remove a doubt which he thought unfounded; and which would, in effect, only strike out of the Act a few useless and unmeaning words. He said a few words only to this effect when he introduced the Bill, and it was ordered to be read a second time on the 30th of May. Ponsonby, Lord Henry Petty, and all the members of the late administration were satisfied with this; saw no harm in the Bill, and meant to make no opposition to it. It struck me in a very different point of view. I thought it an extremely important Bill, and I apprised the Attorney-General that I should oppose it on the second reading. Other business occupied the House till past 12 o'clock at night, and at that hour I represented to him that it was too late to begin a debate on such a subject, in which he very reluctantly acquiesced. The second reading was then put off from day to day; and on this day the Attorney-General said that, as the Bill was to be opposed, it was too late to carry it through this session, and he should therefore withdraw it, and bring it on again in the next session. I cannot but consider this as a very essential service which I have rendered the country. I have, for a time at least, defeated a most insidious attack upon the liberties of the people.

By the 36 Geo. III. c. 8, s. 12, it was enacted that every house, not licensed by two justices according to that Act, in which lectures were given or debates had concerning public grievances or matters relating to the laws, constitution, government, or policy of the realm, and to which persons were admitted for money, should be deemed a disorderly house. The person opening or using the house was to forfeit 100*l.* for every time it was so used, and to be otherwise punished as the law directs in cases of disorderly houses; and the persons present at such lectures or debates were also declared to be punishable as the Act particularly directs. This was merely a temporary law. It was passed, indeed, at a moment of great political heat and ferment, when very numerous meetings had been recently held in the open fields to discuss such subjects, when many dangerous doctrines had been advanced in numerous publications, and when an attack had been made

on the person of the King as he was going down to the House of Lords.¹ And yet, with all this, and with Mr. Pitt for Minister, the Act was only temporary ; and it did not pass till after it had undergone long discussions², and till after there had been a call of the House. Before this Act expired, the 39 Geo. III. was passed, which, after reciting the former Act, declares that every house not licensed as the Act requires, in which lectures were delivered or debates had on any subject whatever, or in which books or newspapers were lent to be read, and to which persons were admitted for money, should be deemed a disorderly house within the intent and meaning of the Act of 36 Geo. III. The Act of 36 Geo. III. had since expired ; but the Act of 39 Geo. III. was a perpetual Act. If, therefore, the section which referred to the 36th was, as I think it was, merely an extension of that Act, these clauses had now expired ; but if the words “within the meaning of the former Act” were nugatory and inoperative, as the Attorney-General insists they are, then the clauses in question, as well as the rest of the 39 Geo. III. are still in force. The Bill now brought in by the Attorney-General was to repeal these words. The Bill, therefore, if his construction of the Act were just, was useless, and would have no operation ; and he stated its object to be merely to remove a doubt which he thought ill founded. But if that doubt were not ill founded, this was, in effect, a Bill to revive a law which had expired for nine years, and which imposed most vexatious restraints on the liberty of the subject, and on the diffusion of knowledge.

12th, Mon. In the committee upon a Bill to increase the salaries of the English and Welsh judges, *Welsh judges* Mr. Banks proposed a clause to declare that *not to be members of Parliament* the Welsh judges should not be eligible to sit *in Parliament*. Thinking that such a provision would be

¹ On the 29th October, 1795.—ED.

² The Bill in question was brought into the House of Commons by Mr. Pitt, on the 12th November, 1795, and after being strongly opposed by Mr. Fox, Mr. Sheridan, Mr. Grey (now Lord Grey), Mr. Erskine, and Mr. Whitbread, it passed both Houses on the 9th December.—ED.

attended with very good effects, I said a few words in support of it. It appears to me to be desirable that the judicial and legislative characters should, in general, be kept distinct. It certainly is not universally true, but yet, in general, a man is a worse judge for being a member of Parliament, and a worse Member of Parliament for being a judge. That the Welsh judges may sit in Parliament, gives the King great influence over the deliberations of Parliament, not so much by means of the votes of the Welsh judges themselves, who hold their offices for life, as of the lawyers in the House who have the expectation of becoming Welsh judges. It is generally from that part of the profession which is in Parliament that Welsh judges are chosen. The English judges are generally chosen from the profession at large, and it is very seldom that the choice falls on a member of Parliament. When a Welsh judge is to be appointed, it is not the man best qualified in the profession to fill the office who is looked for, but one best inclined and qualified to support the Minister in the House of Commons; his judicial qualifications are only a secondary consideration.

The Bill which Mr. Curwen brought into Parliament, to prevent the sale of seats in Parliament, was *Sale of seats in Parliament.* this day read a third time and passed. It was carried by a majority of only 12; there being 97 for it, and 85 against it. I voted against it. When the Bill was first brought in, the Ministers were hostile to it, but had not the courage to oppose it openly; and after the Speaker had in the committee made a speech of very great effect in favour of the Bill, they found it indispensably necessary, in order to save their reputation with the public, that some such Bill should be passed. They have, however, struck out the clause which required an oath of the member, and which annexed the penalties of perjury to the taking such an oath falsely, and every other clause that could make the Bill effectual. With their alterations the Bill is, in truth, what Lord Folkestone¹ proposed to en-

¹ Lord Folkestone moved that the title should be "An Act for more effectually preventing the Sale of Seats in Parliament for Money, and for procuring the Monopoly thereof to the Treasury by

title it, "A Bill to secure the Purchase of Seats exclusively to Government." I could have no hesitation in voting against it.

13th, Tu. A bill brought by Lord Erskine into the House of Lords, for preventing malicious and *cruelty to animals*, and which passed that House with the dissent of only two peers (Lord Redesdale and Lord Stanhope), was this day debated in the House of Commons, on the question whether the House should go into a committee upon it. The Bill declared it a misdemeanor "maliciously and with wanton cruelty to wound, cut, maim, or otherwise abuse any horse, mare, mule, ass, ox, cow, sheep, or swine," and made the offence indictable as a misdemeanor, or punishable, upon conviction, in a summary way before a justice. The principle of the measure was all that in this stage of it could be discussed; and I spoke in favour of the Bill. I contended that it was to be supported, not merely as a measure of humanity but of sound policy; that the Legislature had a right to prohibit those vicious habits which tended to make men bad members of society, and led to the commission of atrocious crimes; that habits of cruelty towards animals led to the exercise of cruelty towards human beings; that nothing could be more just than the observation of a very distinguished artist, who, more than any other of his profession, had devoted his talents to the cause of morality, and who, in tracing cruelty through its different stages, had represented it as beginning with taking delight in the sufferings of animals, and ending in the most savage murder; and that such a Bill as this might not improperly be entitled, a Bill to prevent the crime of murder. The Bill was carried; but not going through the committee on this night, the opposers of it on the next day,* when no person imagined that there would be a division, again opposed going into the committee, not with speeches, but by a division. Upon the division, in a very

* Not the next day, but Thursday, June 15. On the 14th there was no House.

the means of Patronage." There were 28 votes in favour of this motion, and 133 against it.—ED.

thin house, the Bill was lost; 27 for it, and 37 against it. Windham took the lead in the opposition.

Many persons objected to that part of the Bill which enabled justices to imprison offenders upon conviction in a summary way, without the intervention of juries; and, in this respect, the Bill, as it was drawn, gave too large a power to justices. They might imprison for a month; and if they convicted they must imprison for a week. I should have thought the Bill much better, if it had merely given to justices a power of imprisoning for twenty-four hours, or for any number of days not exceeding a week. So restrained, I should have very much preferred summary convictions, where the punishment would follow quick after the offence, to the slower and more expensive proceeding of an indictment and a trial before a jury. Those who are always extolling the Trial by Jury, forget how dearly it is often purchased. Those who are shocked at the idea of giving a justice of the peace power to imprison by way of punishment, forget that, in indictable misdemeanors, and in the case of poor persons who cannot find bail, justices have power to commit the accused till trial; that is, in most cases, for a longer period than the law would allow them to do as a punishment. For small offences, and in the case of persons in the lowest situations in life, a prosecution by indictment is of itself a grievous punishment. The power which the prosecutor alone has to remove the indictment by *certiorari* into the King's Bench, and that at any time, even just before the trial is expected; the fees which the defendant must pay before he can be permitted to plead that he is not guilty; and the acquittal fees which he must pay if he proves the truth of that plea, and the other expenses of a defence, are intolerable evils. I had it, indeed, in contemplation to propose a clause in the Bill to exempt persons indicted under it from the payment of fees to the

*Fees on plead-
ing not guilty
and on acquit-
tal.* Clerk of Assize, or Clerks of the Peace, upon pleading not guilty and upon acquittal. But, being apprehensive that such an alteration

might endanger the Bill when it went back to the Lords, I mentioned it to the Chancellor, and asked him whether he thought it would be objected to. He told

me that by himself it certainly would not be objected to ; but that Lord Ellenborough was extremely averse to every alteration in the fees of officers of courts, and very much alive to everything that had a tendency to such kind of reforms ; and that he could not by any means answer for Lord Ellenborough's not opposing the Bill, if it were so altered. Of course I gave up all intention of proposing such an amendment. But whatever may be thought of such fees in cases where they are already established, it should seem that no person could reasonably object to the Legislature's merely abstaining from adding to them, and declaring, when it creates a new offence, that such fees shall not be paid. The officers can hardly be heard to complain that their emoluments are not increased.

15th, *Thurs.* My Bill to amend the Bankrupt Laws was this day brought back from the Lords with alterations. Some of them are additions of so important ^{Bankrupt laws.} a nature, that, if they are right in themselves, yet it cannot be right that they should become law, without passing, in both houses, through all the regular stages of a Bill. These alterations being only proposed in a committee in the Lords, that House had little opportunity of considering them ; and the Commons will have but one opportunity, that of the question being put, to agree to the Lords' amendments. This summary mode of legislating has been, upon this occasion, adopted by two of the most strenuous enemies to innovation, the Lord Chancellor and Lord Redesdale, they being the persons who have altered the Bill in the House of Lords. The alterations were not even shown to me before they were proposed and adopted ; and this, not from any incivility towards me (for the Chancellor always shows great attention and kindness towards me, and has sent me written observations on the Bill, which I have answered in writing), but from the Chancellor's habits of doubt and procrastination, which induced him to put off the consideration of the Bill from day to day, till it became necessary to hurry it through with great precipitation or to reject it. The alterations are so important, the effect of some of them so doubtful, and the mode of enacting them as law so objectionable, that I hesitated whether I should not abandon

the Bill altogether; for, at this late period of the session, there is no alternative but that, or adopting every alteration which the Lords have been pleased to make. As, however, the Bill, even altered as it is, will in my opinion be a great improvement of the law, I have taken the latter course; and on

19th, *Mon.* After stating in the House the alterations which had been made in the Bill, I moved to agree to them. The motion was adopted without observation from any one, and the Bill has passed.¹

The appeal to the Lord Chancellor upon the certificate, if the creditors refuse to sign it for two years, has been struck out, and so has the clause which made a certificated bankrupt a competent witness without releasing his allowance and surplus. In the place of these are inserted a clause to alter the proportion of creditors necessary to assent to a certificate, from four-fifths to three-fifths in number and value; another to relieve bankrupts from the effect of covenants in leases before their bankruptcy; another, to enable the proof of annuity debts; and a fourth, to prevent commissioners from declaring dividends upon the admission of the assignees, and to compel them in all cases to take the account of the bankrupt's estate before they can be allowed to declare a dividend. Additions have been made to other clauses, particularly that relating to sureties, which, I fear, as it is now framed, will give rise to many questions upon the construction and application of it, and will greatly increase that litigation which it was one principal object of my Bill to diminish. Amongst other alterations in this clause relating to sureties, the Lords have struck out the words which the Attorney and Solicitor-General contended for, and at last prevailed to have inserted, in the committee in the House of Commons. Neither of these gentlemen have taken any notice of this since the Bill came from the Lords.

The vacation. 21st, *Wed.* Parliament was prorogued.

One of my children had this summer a most dangerous illness, which very nearly proved fatal to him, and left him

¹ It is the Act 49 Geo. III. c. 121.—ED.

in a very reduced and feeble state. With a view principally of recovering his strength, Anne and I determined to pass the vacation somewhere by the sea. We accordingly fixed on Weymouth, and arrived there on the 18th of August, having left town on the 16th.

After having been at Weymouth somewhat less than a fortnight, we left all our children there except the eldest, and proceeded with him on a little tour into Devonshire, which we had long meditated.

Sept. 22nd. We returned to Weymouth, and remained there till the 17th of October.

Soon after my return to Weymouth happened the duel,¹ between Lord Castlereagh and Mr. Canning; *Resignation of the two of the secretaries of state.* Perceval's application to Lord Grenville and Lord

¹ The following note is written on a detached paper which did not originally form part of this Diary.—ED.

“The publication of the letters which passed between these ex-ministers previous to their duel, has fully enabled the public to judge of their conduct in that transaction. The practice of duelling, as it has of late prevailed, is a great national evil; and though it is extremely difficult to find a remedy for it, yet that conduct is certainly in the highest degree criminal, which tends in any degree to render the practice still more common. When, indeed, a man has received some flagrant insult, and finds himself exposed, if he patiently endures it, to public contempt and scorn, and if he resents it, not only to a violation of the laws of his country, but to a profanation of the law of God—though it cannot, to those who have a true sense of the duties of religion, be doubtful how he should act, yet even the most austere piety must admit that his is a most trying and painful situation, and that he is well entitled, if not to indulgence, at least to pity. But very different is the case of those who, without any insult offered to them, without the least imputation on their honour, merely because they have been deceived and offended by another, attempt to soothe their chagrin and mortification by the blood of their adversary. Unfortunately, of late years, instances of this latter kind have not been very rare. No example, however, has come within our knowledge, of a duel more unjustifiable than that which has taken place between these men, whose peculiar duty it was, as being entrusted with the government of the country, and as the favoured servants and confidential advisers of a moral and pious prince, to set an example of obedience to the law and respect for religion. Admitting everything that Lord Castlereagh alleges, granting that Mr. Canning had basely deceived his Lordship, had endeavoured to turn him out of office by a dark intrigue, and had afterwards suffered an experiment to be tried at an enormous risk of

Grey, to join in an administration with himself and Lord Liverpool; and the refusal of both those noblemen to communicate with him on such a subject. The letters which

blood and treasure to the nation, which, if it succeeded, as it would make Mr. Canning's own place secure, was to remove all objection to his Lordship, but, if it failed, was to furnish new grounds for the removal of his pretended friend—admitting the private and public treachery of this proceeding, yet there was nothing in all this which any man of the most punctilious sense of honour could think required an appeal to arms. Nothing done, and nothing attempted, had the least tendency to bring dishonour on Lord Castlereagh. His lordship is compelled, indeed, by way of giving some colour of excuse for his challenge, to pretend that, in some way or other, his honour was affected; and therefore he says, that, if his situation had been disclosed to him, he could not have submitted to remain one moment in office without the entire abandonment of his private honour. But his situation never was disclosed to him. His complaint, indeed, is, that it was not disclosed, and consequently his honour must have remained perfectly unsullied. Not only Mr. Canning had not dishonoured him, but, by withholding from him the knowledge of his situation, he had made it impossible that his lordship, by remaining in office, should be dishonoured. According to Lord Castlereagh, Mr. Canning had, it is true, deceived and wronged him; but into what a state must society fall, if, by the example of those men, of whose virtues and talents his Majesty forms a sufficiently high opinion to intrust the fate of his people to their hands, we are to be taught that it is incumbent on every man who has been deceived or injured, to wash out the wrong that he has suffered in the blood of the offender.

“But if Lord Castlereagh's sending the challenge was reprehensible, the manner in which it was accepted by Mr. Canning was, if possible, still more deserving of censure. According to that gentleman, Lord Castlereagh was totally mistaken as to his conduct. ‘His Lordship's letter,’ he says, ‘abounds with misapprehensions;’ and yet he does not attempt to remove one of them. He does not undeceive Lord Castlereagh in any particular, but, on the contrary, he rejoices that his Lordship had misconceived the matter, because it afforded them an opportunity of fighting. No other sense can be put on his letter, in which he says that Lord Castlereagh has been led to send him a challenge because he is in a complete error, but yet that he cheerfully accepts his challenge. ‘Having totally misconceived my conduct, you send me a challenge; I will not set you right, but your challenge I eagerly accept.’ This is a language well suited to a rash youth who is ambitious of the reputation of a duellist, or to a person of doubtful character, who wishes to intimidate any man from saying what all men think of him; but who would expect to find it in the mouth of a Minister of State, of one who has lived to a mature age, and who has never been in danger of being stigmatized as a coward?”

passed between them have been published in the newspapers. The proposal was probably not intended as an insult to Lord Grenville and Lord Grey. But surely no greater insult could be offered to any public men, than to suppose them so eager to be in office, that they would unite in an administration with persons whom they had constantly represented as having supplanted them in office by a dark and disgraceful intrigue, as having set up a false cry of danger to the Church, in order to excite the populace against them, and as having entered on their office upon the most unconstitutional principles. Even if they were dead to all sense of honour, and were regardless of everything but their own interests, they could not have listened for a moment to such a proposal. The consequence would have been that, degraded in character, they would in a short time have been again dismissed through the intrigues of their colleagues, and could never have become again formidable to any administration, however constituted. Nothing, indeed, could contribute more effectually to destroy all confidence in all public men, than so base and unprincipled a coalition. Perceval says in his letter, that no idea existed in his or Lord Liverpool's mind, that, in forming such an administration as was to be proposed, any dereliction of public principle was necessary on any side. The meaning of this it is difficult to discover. The principles of the present and of the last administration being on the most important points in direct opposition to each other, either one side must have sacrificed theirs, or there must have been an abandonment of principles on all sides, and a sort of common understanding among them, that the only object on which they should be steadfastly intent should be the preservation of their places; and that, as for the difficulties of the State, they should satisfy themselves with just struggling against them from day to day, as they might happen to present themselves.

Oct. 17th. I set out for Durham.

22nd. At Sydney Smith's, Heslington, near York.

23rd. Arrived at Durham.

24th. Held my sittings at Durham, where the only business was one motion.

25th. This was appointed by Government to be celebrated as a day of jubilee; it being that on which the King enters into the fiftieth year of his reign. I attended divine service in the Cathedral. We had a sermon preached by —. As was to be expected, it consisted of a panegyric on the King. He praised his Majesty with great propriety for his domestic virtues; but when he passed from the man to the monarch, and entered upon his Majesty's public merits, his theme was not quite so fruitful. Indeed, I had a good deal of curiosity to see how he would deal with it; for I doubt whether the history of mankind can furnish an example of a good man seated on a throne, who, in the course of a long reign, has done less for the happiness of any portion of his subjects than the present King. The first topic dwelt upon was, the making the Judges immovable, even upon the demise of the Crown. This having been a measure recommended by the King himself, it is very just to give him all the praise of it. It is true that, after the Judges had been confirmed in their offices, they, by the law as it already stood, would have been immovable during the remainder of his reign, and that it was therefore the abandonment of a prerogative which he could not himself exercise. Still the measure was a very good one; and the people ought to be grateful when a King grants them a benefit, even though it be only at the expense of his successors. The other public measures which the preacher dwelt upon, as entitling the King above other Princes to the affection of his people, were, the Grenville Act, the removal of the disabilities of those who are not of the established religion, the King's attachment to the Church, the Union with Ireland, and the abolition of the slave-trade. I say nothing of any of these few Acts of Parliament, not of Royalty selected, out of the transactions of half a century to form the grounds of such a panegyric, except that for the abolition of the slave-trade. The gross adulation of ascribing the merit of that measure

to his Majesty, excited in me a degree of indignation which I could ill restrain. That the King who was always personally most adverse to the abolition of the slave-trade; who, by those men in both Houses who have been usually called his friends, constantly opposed it; who, probably alone, counteracted the zeal of his Ministers, and actually prevented, for several years, the measure being carried; and who may be truly stated to have been the immediate cause of many thousands of human beings and their posterity having been doomed to the most cruel of all slaveries;—that he should have incense offered up to him as the destroyer of this abomination, and that by a reverend divine, a high dignitary of the Church, before a numerous audience, and in a place consecrated to the worship of the God of Truth, might really astonish even those who know to what excess of flattery priestly ambition will sometimes have recourse. Strange, indeed, as this is, it is not without example. In a Latin sermon preached by Dr. Bowyer Edward Sparke, Dean of Bristol, before the synod of Canterbury, in July, 1807, Sermon of Dr. Sparke, Dean of Bristol. a few months after Lord Grenville's administration was dismissed, on account or under pretext of their having attempted to remove some of the disabilities to which the Catholics of Ireland are still subject—in this very sermon, preached professedly against the Catholics and against the dismissed Ministers,* those Ministers whose greatest glory it was that, in opposition to the Court, they abolished the slave-trade,—in this very sermon, the reverend preacher does not blush to call the King “*Patriæ parens, Africæ ab immanissimâ corporum mercatura liberator.*” For this, amongst other services, this courtly preacher has, in the present year, been raised to the Bishopric of Chester.†

* He describes the Catholics as openly professing that faith was not to be kept with heretics, and assuming authority over Kings. “Quid,” he says, “magis est periculosum quam ullam potestatem iiii demandari qui (si sibi constare velint) Ecclesiam evertere, adeoque Reipublicas perniciem struere aut saltem alterutri insidias moliri non desinerent.”

† In May, 1812, the Prince of Wales, as Regent, translated him to the Bishopric of Ely.

This Jubilee is a political engine of the Ministers; and no doubt they would have derived great advantage from it, if the failure of their rash and foolish expeditions, and their own despicable quarrels and intrigues, had not made so unfavourable an impression on the public. The King's popularity for many years past will probably appear to posterity, when they reflect upon the measures of his government, to be very unaccountable. From the beginning of his reign to the close of the American War, he was one of the most unpopular Princes that ever sat upon the throne: he is now one of the most popular; and yet in nothing is the character or spirit of his government

Causes of the King's popularity. altered. But the truth is, that it is to the conduct of others, and to events over which

His Majesty had no control, that all his popularity is to be ascribed. When the coalition between Lord North and Mr. Fox took place,¹ the tide turned in his favour. A very general and very just indignation was excited in the public when they saw those two statesmen renouncing all their inveterate political animosities, and forming what seemed a confederacy against the nation, and when they saw them supported in this against the people by their own representatives in Parliament. The fatal effects of that measure have been long, and are still, felt; and it will probably hereafter produce still greater evils than any that have hitherto flowed from it. The King's joining the people on so important an occasion, against his Ministers and against the Parliament, laid the foundation of his popularity. Then followed an attempt upon his life by a maniac;² then the irregularities and dissipation of the Prince destined to be his successor*; next his own unfortunate derangement of mind,³ and the

* The joke of the demagogue Wilkes, who, being asked by the Prince, upon some occasion on which he had manifested his attachment to the King in a very extravagant way,—“How long it was that he had been so loyal?” answered, “Ever since I have had the honour of being acquainted with your Royal Highness,” conveys a very exact explanation of many a man's loyalty.

¹ In April, 1783.—ED.

² Margaret Nicholson, on Aug. 2, 1786.

³ In the autumn of 1788.

dread which the public entertained of the government which they saw about to take place, with the Prince for Regent, and for his Ministers the heads of the coalition who had already claimed for him the Regency upon grounds the most unconstitutional; then his joyful recovery when it was least expected,¹ which dispelled in a moment the gloom which hung over the country: and last of all, but which added tenfold strength to every motive of endearment to the King, the horrors of the French Revolution; the sufferings of the Royal Family, the debasement of the nobles, the confiscation of the property of the rich, the persecution of the clergy, the national bankruptcy, and all those various evils which it had produced, and which gave almost every description of persons who have any influence on public opinion an interest to adhere to, and maintain inviolably, our established Constitution, and, above all, the Monarchy, as inseparably connected with, and maintaining everything valuable in the State.

Oct. 25. After Church, and after I had sat in Court, I went to Bishop Auckland, and passed the rest of the day there.

29th. Arrived in London; on the next day,

30th. The Lord Chancellor held the first seal.

I spent the leisure which this late vacation afforded me in writing some papers on Criminal Law. If I should not have occasion to state the substance of them in Parliament, I perhaps may publish them.

1810.

Jan. 22. Parliament met.

An amendment was moved in both Houses to the Address in answer to the King's speech. The amendment was lost, and by a much greater majority in the House of Commons than the Opposition had imagined to

¹ The complete recovery of the King was announced to the two Houses on the 10th of March, 1789.—ED.

be possible. For the amendment, 167; against it, 263; majority, 96.¹

26th. Lord Porchester, in the House of Commons, moved that the House should resolve itself *Expedition to the Scheldt.* into a committee of the whole House to inquire into the conduct and policy of the late expedition to the Scheldt; and the motion was carried against all the exertions of the Ministers by a majority of 9. For it, 195; against it, 186. I took some part in the debate.²

31st. Bankes moved for leave to bring in a Bill to *Offices in reversion.* make perpetual the Act for preventing the grant of offices in reversion, which will expire in less than five weeks. Perceval moved, as an amendment, that the Bill to be brought in should continue the Act only for a limited time. Bankes's original motion was carried without a division. I spoke in support of it; and, amongst other topics, insisted upon those which are to be found above, in page 70.

There were three divisions to-day, upon the nomination of different members of the committee to inquire into the public expenditure; and the Ministers were in a minority upon each division.

Feb. 9th. Fri. I moved for and obtained leave to bring *Criminal Laws.* into the House of Commons three Bills to repeal the Acts of 10 & 11 Will. III. c. 23, 12 Anne, st. 1, c. 7, and 24 Geo. II., which punish with death the crimes of stealing privately in a shop goods of the value of five shillings, and of stealing to the amount of forty shillings in dwelling-houses, or on board vessels in navigable rivers.³ The Solicitor-General, with his usual

¹ Sir S. Romilly voted in the minority.—ED.

² In support of Lord Porchester's motion.—ED.

³ The following is a letter from Dr. Parr to Sir S. Romilly, on this subject:—ED.

“ My dear Sir,

“ Feb. 21, 1810.

“ I thank you for informing me of your intended motion in Parliament, as it protected me from being misled by newspaper statements. I was very much interested by your speech; I heartily wish you success; and, as the ice is broken, I should hope that the minds of men will be prepared for further progress. It has often struck me, that the crimes of unhappy men in our own days are

panegyrics on the wisdom of past ages, and declamations on the danger of interfering with what is already established, announced his intention of opposing the Bills after they should be brought in.

much less aggravated than they were formerly, and this circumstance I have remarked in my note. I wish you to take it into consideration, when offences have not increased in a number at all proportionate to our increased population, and when their malignity is less, the Legislature has been strangely employed in multiplying capital punishments. You would do well for the present in confining your plan of Reform to crimes unaccompanied by violence, and thus far Paley is with you. What can Windham mean by contradicting you about Paley? I agree with you that Paley is much overrated. 'Videt meliora probatque,' but, in a certain way of his own, and for certain purposes of his own, 'laudat deteriora.' He commends, it is true, the paucity of executions, but he avowedly and elaborately vindicates the number of laws which ordain capital punishment; and here it is that you and I censure the multiplicity of laws which cannot be enforced. I was very glad to see that you agree with me in lamenting that discretionary power which is so capriciously exercised by Judges. Nearly all your brethren will be against you; and this spirit of the fraternity is an additional reason with me for leaving as little as possible in their power. I am glad that you joined the Solicitor-General in checking the extension of capital punishment in a recent debate. But the technical reason which he assigned had greater weight with the House than with me, and perhaps yourself. I observe that your brethren seldom or never touch on those great and leading principles of jurisprudence which Beccaria and Bentham have so well illustrated. As to public affairs, you and I cannot have the smallest difference of opinion about men or measures. From my old habits of intimacy with Mr. Windham, I suffered great pain upon seeing him so completely convicted of inconsistency, vanity, &c., by Cobbett, and by the editors of the *Morning Post* and the *Times*.

"Pray give my very best compliments and best wishes to Lady Romilly. My good friend, I shall make you smile by a little story. I have lately been employed in making my will. It so happens that I am very fond of silver plate, and have been lucky enough to receive many valuable presents in that way. I wish, and have directed it to be kept together. I have bequeathed it to my grandchildren, who are three in number; and if they should all die before they are of age, I have left it to my friend Sir Samuel Romilly, as a mark of my respect and regard. You have little chance of getting it; but you will not be displeased with me for thus putting down your name.* With great respect and regard, I have the honour to be, dear Sir, your friend and obedient humble servant,

"S. PARR."

* See *infra*, *Parl. Diary*, May 15th, 1817.

March 12th. Mon. I published the substance of my speech of the 9th of February, in the form of a pamphlet, with this title, "*Observations on the Criminal Law as it relates to Capital Punishments, and on the mode in which it is administered. By Sir Samuel Romilly.*" I incorporated in it a good deal of what I had written in the course of the vacation.¹

28th. *Wed.* Upon the inquiry in the House of Commons
Criminal laws. relative to the late expedition to the Scheldt,
*Complaint of Charles Yorke,*² member for Cambridgeshire,
breach of privilege by John Gale Jones. enforced the standing order of the House for
the exclusion of strangers. This excited great dissatisfaction in the public; and was made the subject

¹ The following is a letter from Mr. Dugald Stewart to Sir S. Romilly on the subject of this publication.—ED.

"I have yet to thank you for the very great pleasure I received from your Observations on the Criminal Law of England. On every point which you have there touched upon, your reasonings carried complete conviction to my mind; and however unsuccessful they may have been in accomplishing your object in Parliament, I am satisfied that they must have produced a very strong impression on public opinion. I hope that nothing will discourage you from the prosecution of your arduous undertaking, in which you cannot fail to be seconded by the good wishes of every man of common humanity, whose understanding is not altogether blinded by professional or by political prejudices.

"I was more particularly interested in that part of your argument where you combat Paley, whose apology for the existing system I never could read without feelings of indignation. Indeed, I have more than once lost my temper in discussing the merits of that part of his book with some of your countrymen, who were disposed to look up to him as an oracle both in politics and in morals. Your reply to him is, in my opinion, quite unanswerable.

"I have desired my bookseller to send to you a volume of Essays, which I have just published, and of which I request your kind acceptance. In the midst of your present occupations (of which I had lately a circumstantial detail from our friend George Wilson), I do not expect that you will have a moment's time to look into it. But you may, perhaps, find leisure to write me your opinion of it during your autumn vacation.

"Is there no chance of your visiting Scotland this season? Mrs. Stewart and I are living at present about twenty miles west from

³ First Lord of the Admiralty, and a member of the Cabinet.—
Ed.

of discussion in a debating society, which was in the habit of advertising, by bills posted up in the streets, questions to be debated amongst them, and the decisions which they came to. The question on this subject was, whether Mr. Yorke by this conduct, or Mr. Windham by a declaration he had recently made in the House on the liberty of the press, had committed the greatest outrage upon public feeling; and the paper announced that it had been, on the Monday preceding, "unanimously decided, that the enforcement of the standing order ought to be censured as an insidious and ill-timed attack upon the liberty of the press, tending to aggravate the discontents of the people, and render their representatives objects of jealousy and suspicion." Mr. Yorke complained to the House of this paper; and on the 21st of February the House resolved, that John Gale Jones (who was brought to the bar of the House, and admitted himself to be the author of it), in having been the author of the paper, and caused it to be printed, had been guilty of a gross breach of the privileges of the House, and that he should be committed to Newgate. He was accordingly committed; and the Speaker's warrant of commitment recited that "the House had adjudged that John Gale Jones having written and caused to be printed a certain paper containing libellous reflections on the character and conduct of the House, and of some of the members thereof, was thereby guilty of a high breach of the privileges of the House." Sir Francis Burdett, member for *Sir Francis Burdett.* Westminster, published in Cobbett's Weekly

Register of last Saturday, 24th March, a letter addressed to his constituents, and an argument which purported to be in substance the same with one which he had delivered in the House, upon an unsuccessful motion made by him on the 12th, for Gale Jones's discharge. In these, he

Edinburgh, where I need not say how happy it would make us to receive Lady Romilly and you. We have both gained much in point of health since we retired to the country.

"I ever am, my dear Sir,
 "Most sincerely yours,
 "DUGALD STEWART."

insisted very strenuously, and with some offensive and very disrespectful language towards the House and the Speaker, upon the illegality of the commitment; the House not having, as he contended, any authority to imprison for such an offence. Complaint was made of this paper yesterday in the House, and a notice given of a motion upon it for to-day (28th); and it was now moved by Mr. Lethbridge, member for Somersetshire (who upon all occasions voted with the Ministers, and who had preferred the complaint), that the paper was a gross and scandalous libel, reflecting on the just rights and privileges of the House.

It was very difficult to know how to deal with this motion, especially as it is understood that the Ministers mean that it shall be followed by a commitment of Sir Francis Burdett to the Tower. There is no saying to what fatal consequences such a measure may, with the present disposition of the public towards the House of Commons, lead; especially if the principal members in opposition to Government concur in it. The popularity of Sir Francis Burdett, on account principally of his conduct in the inquiry respecting the Duke of York, and of the opposition he has made to a prodigal expenditure of public money, is great, just in proportion as the House is low, in the public estimation. Being strongly impressed with the danger of any hasty proceedings on such a subject, and entertaining great doubt of the power of the House to punish such an offence, I supported to the best of my ability a motion which was made by Mr. Brand, to adjourn the debate till to-morrow se'nnight. The Ministers at first would not hear of this; and nothing could exceed the violence of Croker and other members who supported the original motion. Amongst others Sir Joseph Yorke, brother of Charles Yorke, said he had hoped that the question would have been carried by acclamation. When, however, late in the course of the debate, Wilberforce, Bathurst, and even the Master of the Rolls, recommended an adjournment, Perceval, fearful of being beaten, thought it prudent to give way; and the debate was adjourned accordingly.

30th. *Fri.* The motion of censure of Ministers for their

conduct in the expedition to the Scheldt was lost, and a complete exculpation of Ministers voted by *Expedition to the Scheldt.* the House by a small majority, considering *the Scheldt.* how many members were present; 275 against 227 upon one question; 253 against 232 upon another, a majority of only 21.

April 5th. The adjourned debate on the complaint against Sir Francis Burdett was resumed in *Sir Francis Burdett.* the House of Commons. All the lawyers who took any part in the debate, and all the friends and supporters of the late administration, concurred with the present administration in thinking the paper a breach of privilege, and that the House had a right to punish the author of it in a summary way; but they differed as to the proper punishment to be inflicted; the Ministers supporting a motion made by Sir Robert Salisbury for committing Sir Francis Burdett to the Tower, and the Opposition supporting an amendment moved by Adam, that he should be reprimanded by the Speaker. Upon the best consideration that I could give the subject, I thought that the House had no cognisance whatever of the offence, and I maintained that opinion at considerable length. I did not dispute the right of the House to imprison in all cases of breaches of privilege which obstruct its proceedings; such as resistance to the orders of *Privilege of Parliament.* the House or the warrant of the Speaker; a refusal to answer questions put to a witness, or prevarication in giving evidence; interruption of the proceedings of the House by disorderly behaviour; and publications on proceedings that are pending, with a view to influence votes. But I denied the power of the House to punish the publication of animadversions on the proceedings of the House, or on the conduct of its members, in matters which were concluded. With respect to these, I thought they ought to be left to the ordinary tribunals. If the House punishes, it makes itself accuser, judge, and party. The party accused has no opportunity of being heard; for, though the paper is read to him, and he is asked what he has to say in his defence, he is not, even where he is a member, allowed to hear the debate; and being left ignorant what construction his accusers put upon his words,

he has no means of explaining them, and of showing that he did not use them in the sense imputed to them. He is deprived of a trial by his peers ; he cannot have counsel to plead for him ; there is no appeal from the judgment against him. All these disadvantages must, of necessity, be submitted to in the cases of breach of privilege which I have mentioned, because the House could not proceed to discharge its important functions if it had not the power to overcome such obstructions. But these extraordinary and dangerous powers, as they are only to be justified by necessity, so are they limited by the same necessity. Instances, indeed, were produced, where the House had exercised the power of imprisoning in cases of libels on their past proceedings ; but they were few, and mostly in very bad times. One case was that of Arthur Hall, in Queen Elizabeth's reign (in 1580) ; who, on a complicated charge of publishing a libel on some members, and for disobedience to the summons of the House, was fined, imprisoned for a time certain, and till he should retract his book, and besides expelled ; and, of this case, Hatsell observes, that it is the only instance he had found, previous to the Long Parliament, of proceedings on a complaint of publications derogatory to the honour of the House. (1 Hatsell, 127.) Other instances, indeed, were produced ; but, really, instances of extraordinary powers exerted and submitted to, cannot in such a case make law. If they could, the Houses of Parliament would have a right to punish by pillory and other ignominious punishments, and by a sentence to be kept to hard labour for life ; for such punishments have been inflicted by the Houses. The case of the *King v. Flower*, indeed, is a direct authority by the Court of King's Bench in favour of such a power in the House of Lords as is now contended for ; but it was a judgment pronounced with great intemperance, and is entitled to no weight. Two judges only were present ; and one of them Lord Kenyon, who had, as a Peer, taken a very active part in the proceeding complained of. It was not surprising that none of the political friends with whom I usually act concurred with me upon this occasion. They had themselves, in former cases, so strongly contended for this power in the House

of Commons, particularly in the cases of Stockdale and of Reeves, that they could not exercise an unbiassed judgment now. Lord Grenville was the Peer who, in the House of Lords, moved for the imprisonment and fining of Flower. The question for commitment to the Tower was carried at eight o'clock on Friday morning, but only by a majority of thirty-eight persons in a pretty full House.¹ The doctrine I maintained on this occasion is certainly not very consistent with the power which I once, as counsel in the case of M'Namara, contended that the Court of Chancery possessed. That, however, was in truth a case where the publication related to a proceeding that was depending; and though the arguments I used were not confined to such a case, I had not then given the subject all the consideration which I have since done.²

6th, *Fri.* Outrages have been committed by the populace, in breaking the windows of the ^{Popular dis-} persons who took most part in the debate ^{turbances.} against Sir Francis Burdett, particularly Perceval's, Sir John Anstruther's, the house which Lethbridge lived in, but which he has quitted, and many others.

7th, *Sat.* Sir Francis Burdett refuses to obey the Speaker's warrant, and declares himself determined to defend himself in his house. He has written a letter calling upon the Sheriffs of Middlesex to protect him.

8th, *Sun.* The Guards were called out last night to suppress the riots which took place. The Riot Act was read, and several persons were wounded. Ministers have sent for troops from all parts of the country within one hundred miles of London. I understand that Sir Francis Burdett is acting by the advice principally of Roger O'Connor, Colonel Wardle, and Lord Cochrane.

9th, *Mon.* It having been at last determined that Sir Francis Burdett's house should be broken open, and that he should be carried by force to the Tower, this was accomplished this morning at eleven o'clock; and he was conveyed to the Tower under a strong military escort of

¹ The numbers being for the original motion 190, against it 152.

—ED.

² See *supra*, p. 33.—ED.

cavalry and infantry. The soldiers were grossly insulted and attacked on their return ; they fired upon the people, and several persons have been killed.

It had been reported that Sir Francis Burdett had resisted the execution of the warrant under my advice ; and in several newspapers it was stated that I had been with him on Friday and Saturday. This report I contradicted to-day in the House ; and declared, as is true, that I have had no communication with him directly or indirectly, and that I never was in his house in my life. I had given notice of a motion for to-day for the discharge of J. Gale Jones, but I was advised not to bring on the motion in the state of irritation in which men are at the present moment, and I have therefore consented to put it off.

The Speaker laid before the House a letter from Sir *Burdett's letter* Francis Burdett, *to the Speaker.* declaring that he should resist the execution of the warrant, couched in very indecent and insolent terms, and manifestly written to provoke his expulsion from the House. The consideration of it is deferred till to-morrow.

10th, *Tu.* Perceval proposed a resolution, that Burdett's letter is a high aggravation of his former offence against the privileges of the House, and he admitted, as did Windham and several others who spoke in the debate, that he did not propose an expulsion, lest Burdett should be re-elected by the inhabitants of Westminster. I opposed the motion merely on account of the language in which it was couched. I expressed my sense of the gross impropriety of the letter, and I strongly reprobated Sir Francis Burdett's conduct ; but I said that, not thinking the former paper an offence cognisable by the House, I could not vote the letter an aggravation of that supposed offence. I was very unwell, and obliged to go from the House, and after I was gone it was agreed that the word "aggravation," which I objected to, should be left out of the resolution ; and it was unanimously voted that the letter was a breach of privilege, but that, Sir Francis Burdett being already committed to the Tower, the House would proceed no farther upon it.

16th, *Mon.* I moved that J. Gale Jones should be

discharged from his imprisonment. I made this motion without any communication with Jones him- *Motion for the discharge of John Gale Jones.* and, as my only objects were to bring the House to some degree of moderation, and to relieve the individual from his punishment, the only ground upon which I asked for his discharge was, that the punishment which he had already suffered was sufficiently severe for the offence with which he had been charged; and this was, in the course of the debate, admitted by every body but Windham. Still, however, my motion was opposed by the Ministers. They said that the uniform practice of the House was to require a person imprisoned for a breach of privilege to petition the House for his discharge, and in his petition to acknowledge the justice of his sentence, and to express his contrition for his offence. I endeavoured to show the injustice of adhering to such a practice, by which a man is compelled publicly to profess what he probably cannot in his conscience agree to, and by which he is debased in his own estimation, and is made an instrument of his own disgrace. The Master of the Rolls supported my motion in an admirable speech, and voted for it. The Ministers, however, succeeded in rejecting it. The numbers were, for it 112, against it 160.¹

¹ The following letter from Dr. Parr refers to Sir S. Romilly's speech on this occasion.—ED.

“ Dear Sir Samuel Romilly,

“ April 19, 1810.

“ I have read your speech about Jones, not only with the entire assent of my judgment to every principle, and every modification of principle contained in it, but with deep, serious, solemn sympathy for the pure and hallowed maxims of morality which you feel so strongly, which you have expressed so luminously, which you have applied so judiciously. If wisdom, if virtue, if patriotism, if a thorough knowledge of human nature, if an unfeigned and ardent solicitude for the preservation and increase of human happiness constitute a good speaker, a good citizen, and a good man, you, Sir Samuel Romilly, are that speaker, that citizen, and that man. Dear Sir, I do not know whether our religious creed may in all points be similar: but we do agree upon those great points to which the belief of all doctrines whatsoever ought to be subservient; and this agreement, founded as it is upon an honest use of our understandings, and directed to the happiness of our fellow-creatures,

17th, Tu. A remonstrance and petition from the inhabitants of Westminster assembled at a public meeting on the subject of Sir Francis Burdett's imprisonment, couched in the most disrespectful terms, was this day presented to the House of Commons; and, after some debate, was received and ordered to lie on the table. It will, of course, be in the Journals; and this is certainly not the last affront which, in consequence of the contest in which the Ministers have rashly plunged the House, they will have to receive and to record against themselves. These are the first fruits of this boasted vindication of the rights and dignity of the House of Commons.

May 1st, Tu. The report of the Bills to make an alteration in the Criminal Law, which I have brought *Criminal Law.* into Parliament, came on to-day, when it had been agreed that the principle of them should be debated. I understood that two of them, those relating to stealing in dwelling-houses and on navigable rivers, were to be opposed by the Ministry; and as there was a very thin House, and I was by no means sure that they would not also oppose the third, that which relates to stealing privately in shops; and as I knew that, whether opposed or not, it would not be suffered to pass without a great deal of discussion, I thought it most prudent to take first the Bills that were certainly to be opposed; and I began with the Bill to repeal the Act which makes it a capital offence to steal to the amount of forty shillings in a dwelling-house. Windham was most strenuous in opposition to the Bill; not that he much disliked the Bill itself, but he disap-

will make both of us equally acceptable in the sight of that Deity who is the ruler of all events and the searcher of all hearts. May He bless and preserve you and yours for ever. My scribe, who is a man of letters, feels, I am sure, the same admiration that I do of your last speech; and I have said two or three times with a sigh, 'Oh that Mr. Fox had been alive to hear it!' Yet it will be heard by wise and good men in our own and every successive generation, and it has been heard, and approved, and recorded by the greatest, wisest, and best of all Beings. Farewell.

"I am truly, and respectfully, and gratefully,

"Your friend,

"S. PARR."

proved of the doctrines I had maintained in my speech and my pamphlet, and therefore he opposed the Bill as part of a system which he considered as very erroneous and very dangerous. That in which I had given him most offence was what I had said in answer to Paley, whose reputation he said it was, in his opinion, a great national object to maintain.* The Attorney and Solicitor-General and Perceval also opposed the Bill; but the Master of the Rolls supported it very warmly. He said that the law and the practice being so opposite to each other, one of them must be wrong, and he had no doubt that it was the law. That it was important in all countries

* The following character of Windham, contained in a letter of Sir James Mackintosh, is very accurate:—

“Bombay, Oct. 16, 1810.

“The Eclipse sloop of war is arrived at Madras. She left England on the 16th of June, and brings no news of consequence but the death of Windham. He was a man of a very high order, spoiled by faults apparently small. He had acuteness, wit, variety of knowledge, and fertility of illustration, in a degree probably superior to any man now alive. He had not the least approach to meanness. On the contrary, he was distinguished by honour and loftiness of sentiment. But he was an indiscreet debater, who sacrificed his interest as a statesman to his momentary feelings as an orator. For the sake of a new subtlety, or a forcible phrase, he was content to utter what loaded him with permanent unpopularity. This logical propensity led him always to extreme consequences; and he expressed his opinions so strongly, that they seemed to furnish the most striking examples of political inconsistency; though, if prudence had limited his logic, and mitigated his expressions, they would have been acknowledged to be no more than those views of different sides of an object, which, in the changes of politics, must present themselves to the mind of a statesman. Singular as it may sound, he often opposed novelties from a love of paradox. These novelties had long been almost established opinions among men of speculation; and this sort of establishment had roused his mind to resist them before they were proposed to be reduced to practice. The mitigation of penal law had, for example, been the system of every philosopher in Europe for the last half century but Paley. The principles generally received by enlightened men on that subject had long almost disgusted him as commonplaces; and he was opposing the established creed of minds of his own class, when he appeared to be supporting an established code of law. But he was a scholar, a man of genius, and a gentleman of high spirit and dignified manners.”

that the law should coincide with public opinion, but more especially in this country, where public opinion had so powerful an influence, and where juries prevailed ; and that in truth it appeared that there was amongst prosecutors, witnesses, juries, judges, and the Ministers of the Crown, a general confederacy to prevent the law being executed. Canning also spoke in support of the Bill. It was, however, lost by a majority of two, there being thirty-three against it, and thirty-one for it.¹ Amongst the thirty-three were no less than twenty-two persons in office ; three Lords of the Admiralty, two Lords of the Treasury, two Secretaries of the Treasury, the Secretary of the Admiralty, Secretary of State, Secretary at War, Secretary for Ireland, an under Secretary of State, &c. &c. Very few of the members of Opposition were present. In general they wished well to the Bill, but not well enough to give themselves the trouble of attending upon it.

Having succeeded in their opposition to this Bill, they declined any opposition to that which related to privately stealing in shops ; and the report of that Bill was therefore received, and on Friday following (4th May) it was read a third time and passed.

The third Bill, that to take away capital punishment for stealing to the amount of forty shillings on board vessels in navigable rivers and upon wharfs, was postponed ; though, for some time, Perceval and Ryder (the Secretary of State) eagerly insisted that the House should immediately proceed on it, it being then near one o'clock in the morning.

4th. I moved in the House of Commons for returns of convicts for the last five years, distinguishing the crimes

¹ Sir John Newport, the Master of the Rolls (Sir W. Grant), Mr. Canning, and Mr. Wilberforce, spoke in favour of it. Mr. Wilberforce ended his speech by saying, that "to the able and eminent lawyer who had undertaken this revision, and who had brought forward the Bill under discussion, he for one would declare, as he felt, the most unfeigned thanks ; and he could not avoid adding the expression of his regret that his honourable and learned friend was not in his benevolent undertakings more adequately supported."—ED.

for which they were committed, the crimes for which they were indicted, and the crimes of which they *Returns of convicts to be laid before the House.* were convicted.¹ My object in this was to have, as nearly as possible, an exact statement of the Criminal Law, as it is executed. At the same time I gave notice that I should, early in the next Session, bring into Parliament a Bill exactly the same as that which was thrown out three days ago.²

9th. On a question in the House of Commons, whether a petition of the Livery of London voted at the Common Hall, respecting Sir Francis Burdett's commitment, should be suffered to lie on the table, I spoke and voted for it. The petition certainly was not couched in respectful terms. There was nothing, however, in it which in my opinion justified the rejecting it. I thought that the House ought to facilitate, as much as possible, the approach of the people to them with a statement of their grievances, whether real or imaginary; that, if the people were discontented, nothing was more desirable than that the appeals they made should be to the House itself; and that therefore the House ought not to examine very scrupulously the terms in which the complaint was expressed. The petition, however, was rejected.³ A petition of the freeholders of

¹ No opposition was made to this motion.—ED.

² On this occasion Sir S. Romilly alluded to the thinness of the attendance on the 1st of May, when one of the Bills was thrown out, in the following terms:—“On a question of this description, totally unconnected with party, I have to lament that any one should have thought it necessary to canvass for votes against it; and yet it is obvious that all the gentlemen in office then present voted against it. Of this I do not complain, though I must complain of the thin attendance in the House on that occasion. It is impossible, one would imagine, that gentlemen can be indifferent on a question in which the fate, and even the lives of seven or eight hundred fellow-creatures are involved. It has been said that many gentlemen friendly to the measure would have attended if they had known that the Bill was to come on. But I had given notice of the day in rather a full attendance; and I do think it strange that the Highgate Archway or the Holloway Water Bills should obtain a fuller attendance than a measure of such vital importance.”—ED.

³ By a majority of 92; the numbers being, for receiving the petition 36; against it 128. The petition of the freeholders of Middlesex

Middlesex on the same subject, for which I had also voted, though I did not speak, was on a former day, in the same manner, rejected by the House.

On the same day, I moved that an address should be presented to the King, to pray that he would give directions for carrying into execution the Acts of 19 Geo. III. and 34 Geo. III. for erecting Penitentiary Houses. I stated very fully the gross injustice that, in particular instances, had been done by transporting felons to New South Wales,* and I endeavoured to point out, as forcibly as I could, the mischiefs which resulted from that species of punishment, as well as from imprisonment on board the hulks and in common gaols, where prisoners of every description are confounded together, and youths, imprisoned for their first offences, are compelled to associate with, and are exposed to be corrupted by, the most desperate and hardened thieves. Ryder expressed a strong inclination to assent to the measure, but desired me to postpone it for some time, that he might inform himself more fully on the subject. I therefore withdrew my motion, and gave notice of it for a fortnight hence.

10th. Retainers were offered me by Sir Francis Burdett's solicitor, in the actions he has brought against the Speaker, Sergeant-at-Arms, and Constable of the Tower, accompanied with a note from himself. I returned an answer declining the retainers, and stating that I had made it a rule with myself not to go out of the Court of Chancery into any other Court; and that besides I could not with propriety, as a member of the House of Commons, be concerned as

* In August, 1801, forty convicts were transported who had only one year of their term of transportation unexpired at the time of their embarkation, and ten who had only nine months unexpired, though it is a nine months' voyage. I stated this amongst other facts. Note, that the Duke of Portland was Secretary of State for the Home Department when this flagrant injustice was committed.

was rejected by a majority of 81; 58 having voted for it, and 139 against it.—Ed.

counsel in any such actions; especially as it seemed probable that questions might yet come to be debated and decided on in the House on which the retained counsel of Sir Francis Burdett ought not to speak or vote.

11th. The House of Commons took into its consideration the mode in which Sir Francis Burdett's *Privilege of Parliament* actions were defended, on the report of a committee, which had been appointed to search for precedents and report their opinions. A good deal of discussion took place, and, as I differed from much of what was said, I thought it right to state my opinion. It was, that the privilege of Parliament is unquestionably a part of the law of the land, and is to be administered only by Parliament: that, in a case of privilege, Parliament alone has jurisdiction, but that courts of law have a right to determine whether the case be a case of privilege; that the House of Commons cannot call what it pleases breach of privilege, and imprison whom it pleases under pretence of breach of privilege. In answer to the objection, "that such an abuse of authority by a House of Parliament, as calling what had nothing to do with Parliament a breach of privilege, was never likely to happen, and was an extreme and imaginary case," I instanced what had happened at no remote period of time in Ireland, where the House of Commons voted agistment tithes to be a grievance, and all men who sued for them enemies to their country; and then proceeded to commit, or would have committed, all persons who brought suits for the recovery of tithes unjustly withheld from them. Much was said of the analogy of proceedings in courts of law for contempt, where, it was maintained, that if any Court committed for a contempt, no other Court could take cognizance of it, and that the Court committing was the sole judge what was a contempt. I denied this doctrine, and, as a proof of its being law, I mentioned Bushell's¹ case in Vaughan's *Reports*, and the authorities there relied on by the Chief Justice. I requested the House to consider that, while

¹ In the case of Bushell, jurors were fined, and in default of payment were committed to prison, for finding a verdict in opposition to the direction of the Judge; but on a *habeas corpus*, brought in the

we were contending for these privileges, and insisting that they were, in truth, the privileges of our constituents, we were at the same time contending for similar privileges in the other House of Parliament, who have not, either in theory or practice, the same common interest or feelings with the great mass of the people that we have; and I observed that it was much to be lamented that, while we alleged that these privileges were the protection of the people, they seem to feel them to be only a source of oppression; and that, in truth, whenever those who exercised despotic power, whether individuals or bodies of men, condescended to make any apology for their conduct, they always had recourse to that topic which is now so much in fashion in the House, that they exercised such power not for their own advantage, but for the good of the people.

The Ministers seemed more moderate than the Opposition, who talked about committing the attorney who had brought the action; but at last gave up that notion, and acquiesced in the proposal that the Speaker and the Sergeant-at-Arms should be at liberty to appear and plead to the actions. After all, therefore, that has been said, the privileges of the House will come into discussion in the courts of law, and probably before a jury: and this indeed is one objection to the doctrine that has been maintained, that it does after all seem impossible to prevent courts of justice from holding jurisdiction on the subject.*

18th, *Fri.* The committee made a second report on the subject of Sir Francis Burdett's actions. It was, however, so incorrect, that the House resolved to recommit the report. I spoke on the subject, and observed on the report containing the precedents only on one side, particularly with respect to commitments for contempt by courts of law; and that if it was proper to go into that subject at all,

* Sir F. Burdett's action was finally carried by writ of error into the House of Lords; so that, in the end, the Peers were called upon to decide upon the privileges of the House of Commons.

Court of Common Pleas, the commitment was declared to be illegal, and the persons who had been committed were liberated.—*Ed.*

which I doubted, they ought at least to state the cases on both sides, particularly Bushell's case in Vaughan's *Reports*, which they have passed over in total silence. The truth is, though I did not say so in the House, that the committee seem disposed to assert the most arbitrary and despotic power in courts of justice, down even to courts of Quarter Sessions, which they mentioned in their report; relying confidently that the courts of law, having as it were by this means a common interest in the subject, will uphold, in its utmost extent, the authority for which they are contending. In pretty intelligible terms they say, "Let us be tyrants in the House of Commons, and in return be as despotic as you please in your own courts."

21st, *Mon.* Upon Mr. Brand's motion in the House of Commons for a Reform of Parliament, or rather (for such were the terms of it) for a Committee to inquire into the state of the representation, I voted in the minority. The motion of course was lost; the numbers were, for it 115, against it 234.

24th, *Th.* I received from the Lord Mayor a copy of a resolution of thanks, voted to me by the Livery of London at a Common Hall held last Monday. It was as follows:—"Resolved, that the thanks of this Common Hall be given to the Right Honourable Lord Erskine, Sir Samuel Romilly, and Samuel Whitbread, Esq., for their able, constitutional, and independent conduct on all occasions; and particularly for the stand they have lately made, in favour of the dominion of the law, against arbitrary discretion and undefined privilege."* I returned an answer to the Lord Mayor in these few words:—

"My Lord,

"I have the honour to acknowledge the receipt of your Lordship's letter, enclosing a resolution of the thanks of the Mayor, Aldermen, and Liverymen of London, voted to me in their Common Hall on Monday last. The honour they have conferred on me is in the highest degree gratifying

* I soon afterwards had thanks voted to me in some other popular meetings at Sheffield, Coventry, Nottingham, the borough of Southwark, &c.

to me. Though I have never courted popularity, I have always considered the approbation and applause of my countrymen as the best reward of the conscientious discharge of my public duty."

I have lately received invitations to public dinners of the Livery, and of the electors of Westminster, and have declined them.

30th, *Wed.* The second reading of the Bill to abolish capital punishment for the crime of stealing privately *Criminal Law* to the amount of five shillings in a shop, came *Bill to repeal* on to-day in the House of Lords, on the motion *the Shoplifting Act.* of Lord Holland, who had taken charge of the Bill. It was rejected by a majority of 31 to 11; the Ministers having procured a pretty full attendance of peers, considering the advanced season of the year, to throw it out. Amongst *Conduct of seven Bishops* these were no less than seven prelates; the Archbishop of Canterbury, the Bishops of London and Salisbury, Dampier, Bishop of Ely, Luxmoore, Bishop of Hereford, Sparke the new Bishop of Chester, and Porter an Irish Bishop.¹ I rank these prelates amongst the members who were solicited to vote against the Bill, because I would rather be convinced of their servility towards Government, than that, recollecting the mild doctrines of their religion, they could have come down to the House spontaneously, to vote that transportation for life is not a sufficiently severe punishment for the offence of pilfering what is of five shillings' value; and that nothing but the blood of the offender can afford an adequate atonement for such a transgression. Lord Ellenborough, the Lord Chancellor, and Lord Liverpool, were the only peers who spoke against the Bill; and Lord Holland, Lord Erskine, Lord Lauderdale, Lord Lansdowne, and Lord Suffolk for it. Lord Grey voted for the Bill, but did not speak; Lord Melville and Lord Redesdale were among the silent voters against it. The argument principally relied on by those who spoke against the Bill was, that innovations in Criminal Law were dangerous, and that the present measure was part of a system to innovate on the whole criminal code. It was said that the House should consider, not merely the Bill

¹ Vide *infra*, April 2, 1813.—Ed.

itself, but the speculations in criminal jurisprudence of the author of the Bill: that he had been the author of the act, passed two years ago, to abolish the punishment of death for the crime of picking pockets; and that the consequence of abolishing that punishment had been a very great increase of the crime. So Lord Ellenborough and the Lord Chancellor took upon themselves to affirm the fact to be from information which they said they had received. But how, it may be well asked, and was indeed asked by Lord Lansdowne in the course of the debate, do they know that the crime has increased? All they can know is, that prosecutions are much more frequent than they were before the act passed; and this, instead of affording any argument against the Bill, proves its efficacy. It was stated, when the Bill was proposed, that the inordinate severity of the punishment appointed by law prevented those who had been robbed from prosecuting, and by that means procured complete impunity to the offenders. Take away, it was said, this most severe punishment, and you will have many more prosecutors. The punishment is taken away; many more prosecutions are preferred; and this is the very fact which these men, blinded by their gross prejudices, put forward as a proof that the measure has been unsuccessful. It is, on the contrary, the strongest proof of its success; and would afford us a triumph, if we were capable of enjoying it, on the justness of our speculations. Lord Ellenborough said that there was no knowing where this was to stop; that he supposed the next *Lord Ellen-
thing proposed would be, to repeal the law
borough's speech.*

amount of five shillings in a dwelling-house, no person being therein: and then he declared that that act it was which afforded security to the poor cottager that he should enjoy the fruits of his labour: and he pathetically described the situation of the poor, relying with confidence on the security the law afforded them for the scanty comforts which they were allowed. No person, however, has yet proposed to abolish this law; and it is not very easy to see what there is in common between the two laws, except the words "five shillings." However, whether similar or not, the law he spoke of was not brought under the considera-

tion of the House by the Bill under debate. He spoke of transportation, the severest punishment which the Bill allowed to be inflicted on the offender, as one which had few terrors for those who violate the law, and described it as being considered by them, and, as I understood him, as being justly considered, as only "a summer airing by an easy migration to a milder climate." The part, however, of his speech which appeared to me to be the most objectionable, was that in which he said that he doubted whether the Judges had not erred by too much lenity; and that it was probably that fault on their part which had encouraged these attempts to alter the law. I am not here stating his words, for I cannot recollect them, but what he said was pretty much to this effect. The inference to be drawn from this is pretty obvious, that in order to discourage such attempts in future, and to deprive these lovers of innovation of one of their arguments, namely, that the practice of the law is on this subject at total variance with its theory, it may be right to enforce the law more rigorously. I may by this means (which God forbid) have been the cause of increasing the very evils which I am most anxious to diminish. I have, however, already had reason to suspect that this may be the case. I will mention one cause of this suspicion.

In the last month, and while my bills were all depending in the House of Commons, I received by the post a letter signed Step. R. Amwell, informing me that, in passing through Maidstone, the writer had learned that three men, all convicted for slight offences, had been left for execution by the Judge; and that one of them, of the name of Lawes, whose crime was that of stealing property of the value of 40s. in a dwelling-house, might be thought to have some claim to mercy, as a Bill was depending in Parliament to repeal in such cases the punishment of death; and requesting me to apply to the Secretary of State without delay, as the man was to be hanged on the morning following the day on which I should receive the letter. Immediately on receiving the letter, I hastened to Ryder, the Secretary of State, and put the letter into his hands; and he, without delay, transmitted it to Mr. J. Heath, the Judge by whom the prisoner had been tried, and requested him to inform

him of the nature of the case. Heath's answer to the application (for Ryder sent it to me, and I preserved a copy of it) is in these words:—

“ Sir,

“ I have received and read the letter with the signature of Amwell, and by some passages *Cases before Mr. J. Heath.* I am confident that he wrote me a letter, signed *Amicus Curiæ*, respecting Lawes. As to Lawes, he was guilty of house-breaking, and *most probably* of burglary, in the dwelling-house of Mary Wilkins, a widow woman, who carried on the business of a baker at Minster, and stole plate to the value of 20*l.* and upwards, to the best of my recollection. As house-breaking had been frequent in Kent, and no person appeared to give him a character, I left him for execution. Stephen Nicholes* was convicted of stealing two heifers, which the prisoner and his brother, who has absconded, pretended to have bought for 34*l.* They were driven from the close of a poor widow woman, whose property they were, and slaughtered by the prisoner. The third is Peter Presnal, who was convicted of breaking the cottage of John Orpin, no person being therein, and stealing therein property of the value of 5*s.*; in fact, the things were of the value of 40*s.* It was proved that the cottage was broken whilst the prosecutor was absent at his labour, and all the valuable things were stolen by the prisoner. I consider this offence as the worst of all; because, if not checked, it would destroy all parsimony and frugality among cottagers. In truth, I tried at Maidstone ninety-nine prisoners; and, excepting one executed for murder, I only left the above three for execution, and not one of them could adduce a single witness to his character.

“ I have the honour to be, &c.

“ J. HEATH.

“ Bedford Square, April 4, 1810.”

No respite was sent, and consequently the three men were hanged. It surely ought to be made generally known, that the not producing witnesses to the character

* According to the newspapers, Nicholes was only nineteen years old.

of a prisoner leads, according to the practice of some of the Judges, to such important consequences. To me this was perfectly new.

Lord Ellenborough, in the course of his speech, said that the other Judges were of the same opinion as himself with respect to the inexpediency of passing the Bill. He did not say that *all* the other Judges were of that opinion, but what he said implied this. Upon which Lord Lauderdale observed that, though he could not doubt the fact, as the Chief Justice affirmed it, he did not know how to reconcile it with what he had heard the Chief Baron say but a few days before, at a committee of the Lords on the Bill for consolidating capital offences against the Revenue Laws into one Bill, namely, that he had found by experience that making these offences capital prevented convictions.

Lord Lauderdale told me that, soon after my pamphlet *Case before Lord Ellenborough* appeared, he had some conversation upon it with Lord Ellenborough; in which Lord Ellenborough told him that, though the instances were very rare, yet it sometimes became necessary to execute the law against privately stealing in shops; and that he had himself left a man for execution at Worcester for that offence. The man, he said, had, when he came to the bar, lolled out his tongue and acted the part of an idiot; that he saw the prisoner was counterfeiting idiocy, and bade him be on his guard; that the man, however, still went on in the same way; whereupon Lord Ellenborough having put it to the jury to say whether the prisoner was really of weak mind, and they having found that he was not, and having convicted him, left him for execution. Upon which Lord Lauderdale asked the Chief Justice what law there was which punished with death the counterfeiting idiocy in a Court of Justice; and told him that he thought his story was a stronger illustration of my doctrines than any of the instances which I had mentioned.

Two days after the Bill had been thrown out, the Duke of Gloucester told me that he did not know the day on which it was to come on, or he should have made a point of attending and supporting it.

June 5th, Tu. I renewed my motion in the House of

Commons for an address to the King to execute the acts for erecting Penitentiary Houses. Ryder, the *Penitentiary Secretary of State, was as little prepared now Houses.* as he had been before, and requested me to withdraw the motion, and early in the next session to move for the appointment of a committee to inquire into the effects of the punishment of imprisonment in Penitentiary Houses. The Solicitor-General supported this proposal, and said that many improvements might be suggested in the old plan of the Penitentiary Houses; and that it would be desirable at the same time to establish some regulations for the reform of the county gaols. I declined, however, to accede to this proposal, and persevered in my motion, which of course was lost, but not by a great majority—52 to 69. As soon as the motion was disposed of, Bragge Bathurst moved, and, the Ministers not opposing the motion, the House resolved, that “The House would early in the next session of Parliament take into consideration the means of most beneficially carrying into effect the acts of the nineteenth and thirty-fourth years of his present Majesty, for the establishment and regulation of Penitentiary Houses.”

6th, *Wed.* A petition voted at a very numerous meeting, by the freeholders and inhabitants of Berk- *Berkshire petition.* shire, was presented to the House of Com- mons, on the subject of the imprisonment of Sir Francis Burdett and Gale Jones. Perceval objected to its being received, because it stated that the petitioners expressed their regret and alarm at the injury suffered by the people in the punishment inflicted on John Gale Jones and Sir Francis Burdett; it being, as he contended, disrespectful to the House, to state that what it had done was an injury to the people. I spoke for receiving the petition, and said, that to deny that petitioners might state that the subject of their complaint was an injury, was in truth to deny the right of petitioning; because it was only for the redress of wrongs that petitions were presented. The petition was, however, rejected by a large majority.¹

8th, *Fri.* Upon a question whether the Irish Arms Bill, which is a mitigation of the system established by

¹ For receiving the petition 36; for rejecting it 78.—ED.

Irish Arms Bill. the odious Bill passed two years ago,¹ should have duration for two years, or only for one year, I voted in a minority of only 10 for the shorter period.

9th, Sat. The Bill for repealing the Act of George *Criminal Law.* II., which makes stealing on navigable rivers a capital felony, stood as one of the orders of the day. But it being impossible to bring it on, because there were not forty members present (and if I had attempted to go on with it, the House would have been counted out), I put off the third reading to *Hurry and multiplicity of business in Parliament towards the close of a session.* next Wednesday, though without any hope of being able to bring it on then, or indeed on any other day during the short remainder of the present session, which it is understood is to close in a week or ten days from this time.

For the last three weeks I have endeavoured every day to bring on the third reading of the Bill: but this has been impossible; the other business, the notices, and the orders of the day for business taken up by Government having always precedence, and lasting till two or three o'clock in the morning. The truth is, that the Ministers do not suffer Parliament to sit half the time which is necessary to do the business which comes before it, or which ought to come before it. Many important laws are not proposed, or cannot receive any discussion, because there is not time for them; and many Acts are passed full of objectionable provisions, because the persons who would oppose them, after having waited night after night in expectation of them, find, at last, their patience exhausted. And thus the Bills pass through their different stages at one or two o'clock in the morning, or later, just after the close of a debate on some interesting subject, when it is supposed that nothing of importance is likely to be brought forward. There have been for many days successively, above thirty orders of the day; and on one day, forty-two orders of the day and six notices of motions. Considering the Bill, therefore, as lost, and that I should have no opportunity but this of saying anything upon it, I

¹ See *suprà*, pp. 64—66; and pp. 68, 71.—Ed.

took notice of some of Lord Ellenborough's assertions in the other House; particularly of what he said respecting the increase of the crime of picking pockets, since it had ceased to be punishable with death.* I observed, too, on what Lord Ellenborough had said of my intention, as author of the Bill, to overturn the whole system of our law, or something to that effect; and I disclaimed any such intention. I said I could not admit that I less justly appreciated the excellence of our system of laws because I could discover some imperfections in it, and because I was desirous of removing them, than those who, in their blind admiration, defended and extolled everything which they found established; and I added, that it would indeed be extraordinary if I, who had passed my life in the study and in the practice of the law, who owed whatever little consideration I enjoyed in society to my supposed knowledge of the law, and who must be indebted to the same recommendation for whatever future advantages I might be looking forward to, should be disposed to destroy that system, or to bring it into contempt.

10th, *Sun.* Whitsunday. At Ingram's, Twickenham, and stayed till Wednesday, June 13th.

14th, *Th.* Perceval has brought into Parliament a Bill to regulate the office of Registrar of the Admiralty and Prize Courts,† that most lucrative office, which, while his father was ^{Bill to regulate the office of Registrar of the Admiralty Court.} First Lord of the Admiralty, was granted in reversion to his brother, Lord Arden (who now enjoys it), and after his brother's death to himself. The regulations are not to take place till after the expiration of the existing present and reversionary interests; and no regulations would have been proposed, but for the reports of the Finance Committee. The Bill to-day underwent much discussion on the question whether the report should be received. I objected to the principle on which the regulations proceed. The Bill declares that the Registrar shall be entitled to only one third part of the fees.

* Vide *suprà*, p. 151.

† Vide *infra*, June 19, 1812.

of his office; and that the remaining two-thirds should go to, and make part of, the consolidated fund. Upon this, I observed that, where the fees of an office relating to the administration of justice were too large, the proper course to be taken was to diminish the fees for the benefit of the suitors, and not, as was here done, to continue the abuse, and to let the public in to share the spoil. The Solicitor-General, who was the only person who spoke after me, took no notice of this observation. I also observed that the Bill, as framed, seemed to sanction indirectly the Registrar's employing the money in his hands, belonging to the suitors, at interest, for his own private advantage; that I thought it extremely doubtful whether such an employment of suitors' money could be made legally for the benefit of the officer; that I was strongly inclined to think that it could not; and that, if the matter were only doubtful, it ought not to receive the indirect sanction of the Legislature, without full consideration and discussion. The clause which gave this indirect sanction was, upon Bankes's motion, omitted. Before this was done, however, the Solicitor-General defended it, and stated it to be clear that such an officer might legally make interest for his own benefit of suitors' money. He said that it was done constantly and notoriously by the Deputy-Remembrancer of the Exchequer. I stated that this was not known to me; upon which the *Office of Deputy-Remembrancer of the Exchequer.* Solicitor-General observed, that then I was the only person who did not know it. The fact thus publicly stated by the Solicitor-General, shows the urgent necessity of a reform of the office of Remembrancer of the Exchequer. The Deputy-Remembrancer is the person to whom all references are made, in the same manner as to the Masters in the Court of Chancery. Till his report is made, the money paid into court cannot be taken out; and if he may, in the mean time, employ it for his own benefit, he has the strongest motives for delaying his report. In Courts of Equity there are always large sums paid into court, which, from the difficulty and expense of prosecuting the suit to its final close, are

never taken out. Who, in the Court of Exchequer, has the benefit of these sums? Are they handed over from Deputy-Remembrancer to Deputy-Remembrancer, forming a large fund always accumulating, to be employed for the benefit of the officer for the time being? or in what other way are they disposed of?¹ Is there not something of the same kind, too, in the Admiralty and Prize Courts?

A Bill was brought into the House by Mr. Lockhart, member for the city of Oxford, to alter the law of settlement of the poor, by making it necessary that, in order to gain a settlement by occupying a tenement, it should be of the value of 20*l.* a-year, instead of only 10*l.*, as the law now stands. He proposed this measure upon the ground of the change which has taken place in the value of money since the reign of Charles II., when the present law was enacted; and that now men refuse to let poor persons tenements of 10*l.* a-year, in order to prevent their gaining settlements.

As nothing, in my opinion, can be more oppressive to the lower orders of the people than the law of settlements, and nothing more mischievous than to increase the difficulty of acquiring settlements, and by that means to subject poor persons, who are obliged upon any temporary occasion to ask relief of a parish, to all the vexation and misery which attends their removal from the place where they and their families happen to be resident, I opposed the Bill. Whitbread and Horner also opposed it; and it being impossible, at this late period of the session, that a Bill which would be opposed in its different stages could pass, Lockhart gave it up.

¹ Although an order of the Court of Exchequer was made on February 17, 1747, directing that the Deputy-Remembrancer should receive the dividends of the money of suitors in Court, in order to apply the same for the benefit of the suitors pursuant to the orders of the Court, this was never acted on; and the Deputy-Remembrancer continued to receive the dividends for his own benefit until 1820, when the Act 1 Geo. IV. c. 35, appointed an Accountant-General for the Court of Exchequer, provided for the payment of salaries out of these dividends, and regulated the mode of disposing of the surplus.—ED.

Mr. Giddy, however, who defended the Bill, gave notice that he would, in the next session, bring in a Bill to the same effect as this, and to prevent obtaining settlements by purchase of lands, unless the consideration paid was much higher than 30*l.*, the sum now requisite; and to prevent gaining settlements by residence on land which the party inherits, or has given to him, unless it be of a certain value. I said that, though I had no inclination to attempt to propose laws respecting the poor, such a notice afforded me a strong temptation to submit to the House a measure of a very different tendency—a Bill to make a six months' residence in a parish, under any circumstances, give a settlement; which I thought would be a very great improvement of the law.

I this day made a general order, as Chancellor of Durham, to correct the practice of the Court by diminishing the delay of its proceedings. I limited the orders, which may be had for time to answer a Bill, to two; the first for six weeks, and the second for a month. Till this time three orders might be had, for periods of time which amounted altogether to between four and five months. I ordered, too, that a defendant should be entitled to call on a plaintiff to speed his cause, or dismiss his Bill at the end of nine months, instead of waiting, as he must hitherto have done, till there had been two sittings of the Court; which, as the Court has for a considerable time past sat only annually, might be nearly two years. There is, and always must be, so little business in the Court, that it is hardly worth while to set about a complete reform of the practice. No solicitor would give himself the trouble of learning what the new practice was, for the sake of one or two causes he might institute; he would rather file his Bill in some other Court.

21st, *Wed.* Upon a Bill brought into the House of Commons, by Charles Williams Wynn, more effectually to prevent bribery at elections, which was meant only to be printed and then to lie over till next session, I took occasion to say something upon a reform of Parliament. I expressed my earnest wish that

some measures of reform might be speedily adopted; and at the same time I observed, that a moderate reform appeared to me to be alone attainable, unless by such convulsions as every honest man must contemplate with horror.

June 22nd, Th. Parliament was pro- *Parliament prorogued.*

On the same day, and as speedily as news of the prorogation could be conveyed to the Tower, Sir Francis Burdett was set at liberty. *Sir Francis Burdett released.* He went away secretly in a boat, to the great disappointment and mortification of an immense multitude, which had assembled on Tower Hill and in all the streets through which it was understood that he was to pass in a procession, which persons calling themselves a committee of his friends had arranged. He did well not to appear in the triumphal cavalcade that was prepared for him; but he would have done much better if he had declared his intention beforehand, and if he had not suffered it to be imagined, as he did, till the moment of his departure from the Tower, that it was with his privity and approbation that the procession had been publicly announced.

July 25th. I received an invitation from the stewards of a dinner to be given at the Crown and Anchor Tavern, by some of the electors of Westminster, to celebrate Sir Francis Burdett's liberation from the Tower. I declined the invitation in a letter to the person who had been directed to write to me. My letter was this:—

“Sir,

“I shall be much obliged to you to inform the stewards appointed to conduct the dinner in commemoration of Sir Francis Burdett's liberation, that I think myself much honoured by their invitation, and that I am sorry I cannot accept it. My opinion on the commitment of Sir Francis Burdett is well known, as I have stated it more than once in the House of Commons. But, notwithstanding that opinion, I cannot think that the circumstance of Sir Francis Burdett being discharged from the Tower, because the House of Commons which placed him there is no longer sitting, is an event which

can with any propriety be celebrated as matter of public triumph. Entertaining this opinion, though not presuming to censure those who think differently from me on this subject, I am under the necessity of declining the obliging invitation of the stewards."

August 19th, Sun. The Lord Chancellor having ended his sittings yesterday, I this day set out for Kinsham, in Herefordshire, where, with Anne and all my children, I purpose spending the whole of the vacation, except the time which will be occupied with my annual journey to Durham.

Sept. 15th, Sat. Set out from Kinsham for Durham.

Oct. 30th, Tu. Arrived in town.

I have done very little during the vacation besides taking exercise and endeavouring to lay in a good stock of health. I found it necessary to give about two hours every day to William's instruction. This, the answering a few cases which I had been obliged to defer answering during the business of the Court, correcting and adding a postscript for a new edition of my pamphlet on *Criminal Law*, preparing another pamphlet on the subject of transporting criminals to New South Wales,* and some very desultory reading for my amusement of such works as I happened to meet with at Kinsham, have been my only occupations.¹

* Never published.

¹ Extract of a letter from Sir S. Romilly to M. Dumont, dated Knill, October 13, 1810:—ED.

"I must with shame confess that you have discovered the true cause of my not answering your letter. Without having anything which I am obliged to do, I find myself so much occupied, that I put off answering letters till I am almost ashamed to answer them. You, who have been here, have already as just a notion of our manner of living, and passing our time, as any description could give you. We are staying a week here, we have been a week at Cabalva, another fortnight we shall be at Kinsham, and then there will be an end of the vacation.

"I contrived to vary a little my tour to Durham and back again, and the weather being delightful, our tour was a very pleasant one. William's passion for mineralogy conducted us into the salt-works at Northwich in Cheshire, and into some lead mines in the neighbour-

31st, *Wed.* The Lord Chancellor held the first seal.

Nov. 1st, *Th.* Notwithstanding an order made by the King in council, on the 17th of last *Parliament met.* month, for farther proroguing the Parliament, his Majesty having, before he could sign the commission for proroguing it, been affected by a *The King's illness.* derangement of mind which incapacitated him for all business, it became necessary that the Parliament should

hood of Richmond. From Richmond we went across the country to the western part of Yorkshire to Ingleton and Settle, and from thence through a most beautiful country to Wigan, in Lancashire. We then proceeded to Chester, and from thence made a short excursion into North Wales, and passed through the enchanting vales of Clydd and Llangollen. The recollection of those scenes has taken off a little from the beauty of the country I am come back to inhabit. Still, however, I find it beautiful; and, as I ride a great deal, I every day find out new spots to admire.

"I have been reading a good deal, but, like a very idle person, just every thing which came in my way—Dugald Stewart, Hume, Voltaire, Mad^e. Roland, Burke, and a good deal of poetry. Amongst others the *Lady of the Lake*, and *Crabbe's Borough*. I do not at all agree to the judgment which has been passed upon *Crabbe's* poem. So far from being the worst of his poems, I think great part of it infinitely superior to every thing that he had before written. Much, it is true, of the *Borough* is very tiresome and languid; but the horrible story of Ellen Orford, the description of the condemned convict, and of the sailor who dies in the arms of his mistress, and many other passages, show more genius than anything that has lately appeared. It is true that in general his subjects are extremely disgusting. I cannot, however, but think that it is useful to compel that class of persons, among whom alone he will find readers, to enter with him into poorhouses and prisons, and inspect and closely examine the various objects of wretchedness which they contain. The *Lady of the Lake* is said to be inferior as a poem to *Walter Scott's* former productions, but really one hardly knows how to examine such compositions as poems. All that one can look for is to find beautiful passages in them, and I own that there are some parts of the *Lady of the Lake* which please me more than anything in *Walter Scott's* former poems. He has a great deal of imagination, and is certainly a very skilful painter. The meeting between Douglas and his daughter, the King descending from *Stirling Castle* to assist at the festival of the townsmen (though borrowed in a considerable degree from *Dryden's Palamon and Arcite*), and the guard-room at the beginning of the last canto, all show extraordinary powers of description. If he wrote less, and more carefully, he would be a very considerable poet."

meet: and, accordingly, both Houses met to-day. In the House of Commons Perceval stated the King's indisposition, said that it had arisen entirely from his anxiety for his daughter the Princess Amelia, and that his physicians entertained the most confident expectation of his recovery; and proposed an adjournment for a fortnight, and that there should be a call of the House. These propositions were adopted *nemine contradicente*. I was present, but although there was a pretty full attendance of the Ministers' friends, very few of the Opposition attended. Letters had been sent to all of the ministerial party to require their attendance; and it had been kept a secret from all others, till the day before the House was to meet, that the commission had not been signed.

In the Lords the same course was pursued as in the Commons.

2nd, *Fri.* The Princess Amelia died.

15th, *Th.* The two Houses of Parliament met, pursuant to their adjournment. The King, though better, not being yet capable of attending to business, a further adjournment for a fortnight was moved by Ministers in each House. No examination of the King's physicians by either House was proposed, nor was even any examination of them taken before the Privy Council (as had been done in 1788) laid before either House. In the Commons Perceval merely stated that he had been that day to Windsor and had seen his Majesty's physicians, and from them had ascertained that the King was in a state of progressive amendment; and, upon this, he moved the adjournment for a fortnight. Whitbread opposed so long an adjournment, but said that he should not divide the House. Sir Francis Burdett, however, declared that he should insist upon a division. As a division was to take place, I thought it right to state my reasons for dividing against the adjournment; I said that, in my opinion, no ground had been laid before the House for its putting it out of its own power to do anything for a fortnight, whatever might be the calamities which might befall the nation in the interval. That though it might be right, in the present state of the King's health, and if there should not be any considerable alteration in it, not to take any step

for a fortnight, yet I could see no reason why we should make it impossible to take any step during such a period ; that I saw no reason why we, who were the servants of the public, should not, while the nation was deprived of the executive power, meet and adjourn from day to day. Ponsonby spoke against the adjournment, but said that, for some reason, which to me was not very intelligible, he should vote for it. Most of the Opposition members and all the Prince of Wales's friends followed his example in voting. On the division, therefore, there were only 58 against the adjournment, and 343 for it. Some went away without dividing.

29th, *Th.* The two Houses met, this being the day to which they had adjourned. Yesterday and this morning the five physicians who are attending the King were examined before the Privy Council. The result of their examination was, that the King was incapable of coming to the Parliament, or attending to any kind of public business ; and that there was a very great probability of his recovery, and at no distant period ; but that the probable duration of his disorder could not be ascertained. This examination was laid before each House, and in each an adjournment for another fortnight was proposed by the Ministers. Ponsonby, in the House of Commons, opposed the adjournment ; and moved that a committee of the House should be appointed, to inquire into the cause of his Majesty not being able to meet his Parliament. There was a division on each question ; for the adjournment 233, against it 129 ;—for appointing the committee 137, against it 230. On each question I voted in the minority, but I did not take any part in the debate.

Dec. 13th, Th. Both Houses met again to-day ; and the King's disorder still continuing, it was resolved in each House that a committee should be appointed to examine his Majesty's physicians.

17th, *Mon.* The Committee made their report of the examination of the physicians, and it was ordered to be printed. The whole of the evidence, however, which the physicians gave, does not appear in the report. Several of the questions and

*Examination
of the King's
Physicians.*

answers were expunged by the Committee before they made their report. Some of the most important facts so suppressed are, that the cause of the King's insanity in 1801 was the resignation of Mr. Pitt; and the cause of his insanity in 1804, the publication of the correspondence between the Prince of Wales and the Duke of York.

20th, Th. Mr. Perceval moved in the House of Commons the same three resolutions as were moved by Mr. Pitt in 1788:—1st, that the King was prevented by indisposition from coming to his Parliament, and from attending to public business, and that the personal exercise of the royal authority was thereby for the present interrupted; 2dly, that it is the right and duty of the Lords and Commons to provide the means of supplying the defect of the personal exercise of the royal authority, in such manner as the exigency of the case may appear to require; and, 3dly, that for that purpose, and for maintaining entire the constitutional authority of the King, *it is necessary* to determine on the means whereby the Royal assent may be given in Parliament to such Bills as may be passed by the two Houses of Parliament, respecting the exercise of the power and authorities of the Crown, in the name and on the behalf of the King, during the continuance of his Majesty's present indisposition. The two first resolutions were adopted by the House without a division. When the question upon the third was put, Mr. Ponsonby moved to leave out all the words except "That," and to insert,—“An address be presented to the Prince of Wales, requesting his Royal Highness to take upon himself, during the King's indisposition, the government of the realm, and to administer it, in the name and on behalf of his Majesty, under the style and title of Regent of the United Kingdom of Great Britain and Ireland.” A long debate ensued, in the course of which I spoke for the amendment and against the original resolution. I endeavoured to point out the inconsistency there was between the second and third resolutions;—the second resolving that it was the right and duty of the Lords and Commons to supply the defect; and the third that it was necessary to have

*Proceedings
of the House
of Commons
on the King's
illness.*

the concurrence of the Royal assent to the supplying that defect: in other words, that it was the right and duty of the Lords and Commons to do alone what they could not do without the permission of the Crown. There was the same inconsistency too between the third and the first resolutions;—the third declaring that the Royal assent was necessary, and the first that, from the King's indisposition, his assent had become impossible. I disapproved of proceeding by Bill, because it was pretending to have the King's assent, where in reality it was not, and could not be, given. I thought that proceeding by address was an open, manly, and honest way of doing that which was in substance to be done. It was avowing that the measure was the measure of both Houses alone; which it still would be, though the idle ceremony were to take place of putting (by the authority of the two Houses) the King's Great Seal to a commission for giving his pretended assent to their own act. All Perceval's motions were carried. The resolutions were afterwards agreed to by the Lords.

Dec. 31st, Mon. Perceval moved in a committee of the whole House his resolutions, to offer the regency to the Prince of Wales, subject to certain restrictions. The restrictions were, to withhold from the Prince the power of creating Peers, except for naval and military services; the power of granting places or pensions for life, or during good behaviour, except in cases where by law they must be so given; and the power of removing or appointing the officers of the King's household, which latter power was to be given to the Queen. These restrictions were to last only a year, and for six weeks of the then next session of Parliament. There were divisions upon the two first of these resolutions: upon the first the Ministers had a majority of only 24, and upon the second of only 19.

1811.

Jan. 1st, Tu. Perceval moved the resolution respecting the King's household, which had been postponed from yesterday. I opposed it; and a tolerably accurate statement of my speech appeared in some of the newspapers, the best of which was, I believe, in the *Times*.* The proceedings in 1788 had been relied on as a precedent which ought not to be departed from. It had been stated on the preceding day by Perceval and by several others, to be a precedent of the greater weight, because it had the authority of that great man Mr. Pitt. Among other observations which I made on that precedent, I said it did not acquire additional authority with me from being a precedent established by Mr. Pitt; that I was not among the worshippers of Mr. Pitt's memory; that he *Mr. Pitt's* was, undoubtedly, a man of most extraordinary and splendid talents, but that much *a statesman.* more, in my opinion, was necessary to entitle a Minister to the character of a great man; and that, with all the talents that Mr. Pitt possessed, and the great influence which he had so long enjoyed, I looked in vain for any acts of his administration by which he had increased the happiness or improved the condition of any portion of his fellow-subjects. I then said that, in 1788, Mr. Pitt could not be considered as a statesman pronouncing an impartial judgment on a great constitutional question; that he was deeply interested in the transactions of that time, and was desirous of retaining his power as long as he could, and of transmitting it (when he should be obliged to give it up) as much curtailed as possible to his successors. These observations were extremely unpleasant, as I had no doubt they would be, to many of my

* A better account of this speech is to be found in Cobbett's *Debates*.

political friends.¹ A sort of compact was supposed by many persons to have been entered into never to say anything disrespectful of Mr. Pitt's memory. I, however, have never entered into such compact; and, though I would not wantonly attack the reputation of Mr. Pitt, yet I have often felt indignation when I have heard his praises sounded forth in the House of Commons by the very persons who had acted throughout his life in opposition to all his measures. Upon this occasion, Mr. Pitt's name was used as an argument,² and I had no choice but, by my silence and acquiescence, to admit the force of the argument, or to attempt to give an answer to it; and the only answer to be given was, to show that his name was not entitled to all that respect which many persons were disposed to exact for it. Upon the question, the Ministers were left in a minority of 13.³

2nd, *Wed.* The resolutions come to in the committee were this day reported and agreed to by the House. A long debate took place. At the close of it, Canning, who had been in the House the night before, and *Canning's* had spoken some time after me without taking *attack on me.* the least notice of what I had said of Pitt, produced a laboured panegyric on Mr. Pitt, and an attack on me. The panegyric was decked out in the most gaudy attire, and with the most splendid ornaments, for which he had been twenty-four hours ransacking the wardrobe of his

¹ Mr. Wilberforce complained of these remarks the same night.—ED.

² Mr. Perceval said, "I look to the authority of the period to which I have alluded (1788) with the greatest reverence. I recollect whose judgment, whose abilities, and whose character presided over the transactions of those days; and although I do not expect the unanimous concurrence of those who hear me in the opinion, I am nevertheless persuaded, that, from the circumstance of the plan being proposed after great deliberation by the illustrious individual by whom it was proposed, the general presumption of the country is so much in favour of following such a high authority in the present instance, that it is much more necessary for me to say why I depart from the plan of 1788, in any one instance, than why I adopt it in general."—ED.

³ The numbers were, for the amendment, 226; against it, 213.—ED.

eloquence. I answered him with great calmness and command of myself; and observed, at the close of what I said, that if he had answered my challenge of the night before, and had in plain and simple language pointed out the acts which I had overlooked,—if he had shown me in what class of the community I might discover an increase of comforts and happiness, the effect of Mr. Pitt's talents, and to what part of the empire I was to look to read his history in a nation's eyes, he would have better served the memory of his friend than by all his laborious rhetoric.

No doubt, I must expect to be abused for what I have done, and probably by all parties; but I feel the most perfect satisfaction with the part which I have on this occasion acted. The reputation of Mr. Pitt, and the system upon which he has acted, are inseparable; and his system cannot, in my opinion, be too strongly reprobated. It has produced the most mischievous effects, and is still producing them.¹

¹ The latter part of the following letter from Dr. Parr has reference to Mr. Canning's attack on Sir S. Romilly:—ED.

“ Dear Sir,

“ I entreat you and Sir Arthur Piggott to accept my very sincere and respectful thanks for your prompt and noble contribution to my chancel window; and with great pleasure and great pride shall I record your honourable names in my parochial register. You have both of you the praise of acting up to the spirit both of a heathen moralist and a Christian one. I remember a heathen who tells us *ἀκίς χάρετις γλυκιεράτισται*, and Paul has bestowed just commendation upon the *ἱλαρὸν δέοντο*. I shall write a short letter of acknowledgment to Sir A. Piggott, but I beg of you to convey my thanks to him by word of mouth, when you see him. I shall direct my bookseller to get me Mr. Leach's publication, and I shall employ Mr. Horner, who is a less busy man than yourself, to give me some information about the connexions and pursuits of the Speaker. Exquisite is the delight I feel from your own speeches in the late interesting debates, and from the effect that they produced on every intelligent man with whom I have conversed. I was entirely with you on the question of privilege^a; and perhaps I go beyond you in maintaining that the House of Commons has, upon no occasion whatsoever, the right of inflicting that which has the property of punish-

^a See *suprà*, pp. 137 *et seq.*

The Ministers were again beaten, but by a majority of only three,¹ on the resolution respecting the King's

ment. Great, doubtless, is the power it has of removing obstruction ; and great ought to be that power ; though, in the exercise of it, I firmly resist all circuitous construction. If you expel a member, the act of expulsion may be the removal of an obstruction, because he does not comply with rules, or because he has committed some offence which the laws punish, and the commission of which is inconsistent with those rules which you have prescribed for the qualification of members. Treason, perjury, theft, perhaps sedition, are punished by the laws only ; but the offender is not punished by your House when you expel him. He has brought upon himself incapacity for staying there, by violating those conditions upon which you have declared that a member is qualified to have a seat in your House. In case of libel against the House, the punishment ought to proceed from the Courts of Law only, and there the penalty may be proportioned to the offence ; and if the penalty should, under the authority of the laws, amount to pillory, the criminal becomes infamous, and of course is disqualified from remaining in Parliament. Such is my view of the question.

" My good friend, I never was so puzzled to get a *ssū ssū* as I am for reasoning upon the principle which is to create a Regent by Bill ; and as Lord Grenville is wary and fastidious in the use of terms, I am quite astonished at his application of the word *Legislative* to that which is done by only two branches of the Legislature, and is therefore an inchoate and imperfect act. If there were no House of Commons, would he extend this term to any act of the King and the Lords ? I hope that you will soon bring these tiresome and multiplied delays to a happy termination ; and in the mean time I shall often say of the person who drives our State Chariot,

‘ *Ipse rotam adstringit multo sufflamine consul.*’

" I am sure Sergeant Lens would allow the propriety of the quotation.

" I have now an amanuensis, and, therefore, while you sip your tea, you may amuse yourself with a good deal of my classical jargon. Have you seen Mr. Cauning's critique in the Quarterly Review, upon *Gifford's Life of Mr. Pitt* ? I am not satisfied with all his reasoning upon French affairs, though in many parts he has argued very well, and has well put together the best things which he has met in books, or which have occurred to him in the course of his own reflections. As a composition it has some demerits, but far more merit. But the metaphors are too numerous. They are sometimes too far fetched. They are pushed now and then even to ex-

¹ The numbers were, for the resolution of the Chancellor of the Exchequer, as amended in the Committee, 217 ; against it, 214. —ED.

household, which Perceval endeavoured by an amendment to bring back to something resembling what he

cess, and I can describe them only by the word *ἀνθολογία*. If I were talking to Sergeant Lens, who cares more about Greek than you do, I should say that, in what Mr. Canning has borrowed, and what he has written from himself, his work may be compared to what Salmasius calls the *corona pancarpia* of Meleager; and the Sergeant may find a beautiful series of verses on this subject, if he will turn his eye to page 55, in the *Notitia Poetarum Anthologicorum*, in Tom Warton's republication of the *Anthologia Cephala*, published by Reiske. If the Sergeant, and Canning, and I were talking together, I should say, 'Mr. Canning, I very much honour you for your zeal and your gratitude towards Mr. Pitt, your friend and your benefactor; and in likening your elaborate critique to the verses of Meleager, I have given, or meant to give you, great praise. But when you employed twenty-four hours to cull all your flowers of panegyric, and brought your dainty chaplet hastily made up into the House of Commons, you must permit me to remind you and the Sergeant of something which you read when you were boys at Eton upon the *ορίφες* sent to Rhodocleia. You plucked the flowers and arranged them with your ownhands:—

ιστὶ χρίνον βοδίν τε κάλυψ, νοτιρὸν τ' ἀνιμάνη,
καὶ νάρκισσος ὑγρὸς, καὶ κυανανυγὶς θον.

But the work was done with too little art. The materials were perishable. The occasion and the place were improper; and therefore bear in mind the concluding line—

ἀνθεῖς καὶ λίγυις, καὶ σὺ καὶ ὁ στίφανος.

"Your reply, dear sir, was quite irresistible; and if Canning had understood as well as you do the 'sedes argumentorum, in quibus lateant, ex quibus sint petendæ,' he must have seen that when Mr. Pitt's name was introduced by Mr. Pitt's admirers to give authority to Mr. Pitt's measures, you and every other opponent of those measures were completely justified in appreciating the *value* of that authority. If I were talking upon the subject with Sir Arthur Piggott, who prefers sense to rhetoric, and who thinks your integrity and patriotism quite as respectable as the loyalty of Mr. Pitt, I should say, that when Mr. Canning let loose his wit upon Sir Samuel Romilly, he forgot some precautions which a much wiser man¹ than himself or Mr. Pitt has suggested for the use of ridicule. 'Vitandum etiam, ne petulans, ne superbum, ne loco, ne tempore alienum, ne preparatum et domo allatum videatur, quod dicimus. Nam quidam ita sunt receptae auctoritatis et notæ verecundiae ut nocitura sit in eos dicendi petulantia.' Well, my friend, I have been talking about you to Meers. Canning and Piggott. But what shall I say

¹ Quintilian.—ED.

had originally proposed. By his amendment, the Queen was to have the power of appointing to offices in the household upon the happening of vacancies, but not to have the power of removal. I have gained much credit by my answer to Canning. The only merit of it, however, was, that it was given with much calmness and command of temper. This incident has given rise to some very just observations on Pitt's administration, by Cobbett, in his paper of Wednesday, January 9.

15th, Tu. The Parliament was this day opened under a commission, to which the two Houses had *Parliament opened.* directed the Great Seal to be put.

17th, Th. In the Committee of the House of Commons upon the Regency Bill, I objected to a clause, by which it was to be enacted, "that the Regent should be deemed and taken to be a person acting and executing an office and place of trust within England, and should take and subscribe such oaths, and make and subscribe such declarations, and do all such acts, as are required by law to qualify persons to hold offices and places of trust, and to continue in the same, in such manner as by the statutes are required, and

to you about yourself and your antagonist, the lively Secretary ? Why, I will use that language which Mr. Canning knows to be true, and which he must with sorrow allow to be pertinent. 'Ingenium tu ejus ita laudas ut non pertimescas, ita probas ut te ab eo *delectari* facilius quam *decipi* putas posse.' After this recent and signal defeat, 'nunquam te ille opprimet consilio : nunquam ullo artificio pervertet, ita contra te ille dicet, quamvis sit ingeniosus, ut nonnullum etiam de suo ingenio judicium fieri arbitretur.' I am quite confident that Sir Arthur Piggott and Sergeant Lens would agree with me in applying all this learned *lingo* to your Parliamentary skirmish. I shall not apologize to you for putting my meaning into better language than I can find for it in vernacular phrase. I suppose that you now and then lay aside your briefs, and skim over a newspaper while Lady Romilly makes the breakfast for you, and therefore this letter may amuse you a little in the few moments of leisure which are granted to you. Pray give my very best compliments and best wishes to her Ladyship. I have the honour to be, dear sir, with great respect and great regard, your faithful friend and much obliged humble servant,

"SAMUEL PARR.

" Hatton, Jan. 7, 1811."

under such pains, penalties, and forfeitures and disabilities as are thereby appointed." The ground on which I objected to this clause was, that it must have the effect of making the Regent a responsible officer. By law the King can do no wrong, and it is only his advisers, and the instruments by which he acts, who are amenable to the law. A Regent ought equally to be irresponsible. To subject him to punishment for any acts done by him in the exercise of the royal authority, would be entirely to alter the nature of the Constitution. Perceval said that he conceived the effect of this clause would not be to make the Regent responsible; but would leave the question whether he was responsible or not just as it would have been if there were no such clause. In this he is unquestionably mistaken. A man declared by a statute to be executing a public office of trust must necessarily be answerable for a breach of that trust. Perceval then said that the clause had been inserted in this Bill because it was found in the Bill which had passed the House of Commons in 1789, and that the clause in that Bill had never been objected to. This is true; but that it never was objected to is not a little surprising; it seems to have been quite unnoticed. Perceval said besides, that the same clause was to be found in the Regency Act of 24 Geo. II. c. 24, and 5 Geo. III. [c. 27], and that, being in so many acts of this kind, it ought not to be hastily rejected. It is true, that such a clause is to be found in those Acts; and there can be no doubt, I think, that it was meant to make the persons who were described in such clauses, namely, the Regent and Council of Regency, responsible. The sovereign power there was to be exercised by the Regent and Council, not by a single individual; and the Council was to consist of all the great officers of State, the Chancellor, First Lord of the Treasury, First Lord of the Admiralty, Secretaries of State, Privy Seal, &c. They were their own ministers and advisers; and unless they were personally responsible, no person could be responsible for their acts. But the case of a sole Regent is very different. Some discussion took place, and at last it was agreed to

postpone the clause till the rest of the Bill had been gone through.

The next day, *Fri.* 18th, Perceval proposed to leave out the clause, and in the place of it merely to require that, before the Prince entered upon the office of Regent, he should take the oath of allegiance, and produce a certificate of his having taken the sacrament. As he thus yielded to the objection I had made, nothing was said on any side.

Much doubt is entertained whether the Regent will be a responsible officer or not ; and it is thought by some persons most prudent to leave that doubt unsolved. I cannot say that I am of that opinion. I cannot think it prudent to leave it for matter of future discussion what shall have been the nature of the Constitution under which we shall have lived. The Act empowers the Regent to use and exercise all authorities and prerogatives of the Crown. The perfection of the King in his politic capacity is one of his attributes—is a part of his prerogative. It may be asked, could not a Regent, who exercises authority in the name and on behalf of a King, be guilty of high treason towards the King? Is it clear that an attempt to dethrone, or, which is the same thing, to dispossess the Regent of his power, would be treason? These are difficulties undoubtedly ; but yet, with respect to all acts of government which the Regent must do as King, and with responsible instruments and advisers, it would be in the highest degree inexpedient that he should be himself responsible. If such a Regent would be responsible, undoubtedly the heir-apparent of the throne ought not to be appointed to the Regency. I have not, however, thought that it became me to force on, against the wish, as it should seem, of all parties, a discussion of these important points.

There were divisions upon some proposed alterations in the Bill with respect to the appointment of officers of the Household, and to confine the restriction respecting the creation of Peers to six months; in which the Ministers had majorities of 27 and 22.

Question
whether the
Regent will be
a responsible
officer.

19th, Sat. William Allen, the Quaker and chemist, *Jos. Lancas-* called on me according to his own appoint-*ter's schools.* ment, to speak to me on the subject of Lan-
caster's schools. A plan has been for some time
formed for extending them to every part of the kingdom.
Allen and Jos. Fox, who are the principal promoters of
this plan, and who have generously made the greatest
sacrifices of their time and property to promote it, think
that it will be useful to have my name amongst the mem-
bers of a committee for this purpose. As I think the
object is one of the highest importance, I have willingly
consented to be of their committee.

21st, Mon. Upon receiving the Report of the Regency
The Regency Bill, another attempt was made to diminish
Bill. the restrictions to be imposed on the Regent
with respect to the household. I supported this on the
ground that the Bill, as it was framed, was not a fair and
honest execution of the resolutions which the House of
Lords had concurred in, and upon which the Prince had
agreed to accept the Regency. By the resolutions, the
Queen was to have the sole direction only of such a por-
tion of the household as should be deemed requisite and
suitable for the due attendance on his Majesty's person,
and for the maintenance of his dignity; but by the Bill
the whole of the household, with the exception of two
offices, is placed under the direction of the Queen.
Amongst others, there are placed under her direction the
Master of the Horse and the Master of the Buck Hounds,
which can have nothing to do with attendance on the
King's person, and, in his melancholy situation, cannot
contribute to the maintenance of his dignity. Upon the
division, the numbers were, for the Bill as it had passed
through the Committee, 212; for the amendment, 190.

Feb. 4th, Tu. The Royal Assent was this day given
The Bill by commission, under the authority of the two
passed. Houses, to the Bill which they have passed for
establishing a Regency.

The Regent 6th, Wed. The Prince took the oaths as Re-
Sworn in. gent before the Privy Council.

The Prince had determined, the moment he should

have entered upon his office, to have changed the administration; and a new Ministry had been arranged. Lord Grenville was to have been First Lord of the Treasury; Lord Holland, First Lord of the Admiralty; Lord Grey, Ponsonby, and Whitbread, Secretaries of State; Lord Erskine, Speaker of the House of Lords; and the Great Seal was to have been put in commission. Piggott and I were to have had our former offices of Attorney and Solicitor-General.*

The Ministers continued in their offices.

In consequence, however, of an intrigue which has been carried on with great art, the Prince has determined not to make any change, but to proceed in the administration of the government with the Ministers whom the King had appointed. He announced this intention in a letter sent yesterday to Perceval, which was so expressed as to give him to understand that he and his colleagues had not the Prince's confidence; and in the hope that they might be induced, from understanding this, voluntarily to resign. Perceval, however, in his answer affects to understand the Prince, who speaks of the unconstitutional situation in which he shall be placed, to mean only that the restrictions imposed on him by the Bill will have that effect; and says that he has no doubt the Ministers who will enjoy his confidence, will find themselves possessed of power fully adequate to carry on the government. Such has been represented to me to be the effect of the letters, but I have not seen them. The Prince has told his confidential friends Sheridan, Adam, &c., that he shall consult with them on all public matters and they have had great difficulty in convincing him that this is impossible; that he cannot, without violating the principles of the Constitution, have any secret advisers; that his ostensible Ministers must be his only advisers. The principal instrument in effecting this change in the Prince's intentions has been * * * * *, one of the King's physicians. He was in the habit of waiting on

* It was at first intended that the Chief Baron of the Exchequer should resign, that Piggott should succeed him, and that I should be Attorney-General; but Piggott declined accepting the office of Chief Baron.

the Prince from the beginning of the King's illness, and, as was at that time reported, of representing to the Prince that the King's illness was much more alarming than it appeared in the ostensible reports made to be seen by the public. Of late, however, he has represented to the Prince, in the strongest manner, the probability of the King's recovery; has told him that the King frequently makes the most anxious inquiries after him; and has represented to the Prince that a change of Ministers would in all probability, as soon as it was communicated to the King, produce such an *exacerbation* (this is the very term he used) as might put an end to his life; and he has very strongly forced upon the Prince the reflection, that he might be considered as, or that he would in effect be, guilty of parricide. The Queen, too, wrote a letter to him to say that the King had been informed of all that had passed during his illness, and was in the highest degree gratified by the manner in which the Prince had conducted himself while these matters had been pending. The Queen has not seen the King, and consequently wrote only from Perceval's representation, or rather (as I know the Prince himself has observed) by Perceval's dictation; the word "pending" being (as the Prince has said) likely enough to have escaped from a man once accustomed to the language of lawyers, but which would never have occurred to the Queen.

I this day, 6th, attended a committee of the African Institution, of which I am a member, on the *Slave Trade*. subject of a Bill which they have determined to have immediately brought into Parliament, to make the dealing in slaves or fitting out vessels for that purpose a felony, but with benefit of clergy*. Notwithstanding the Act for its abolition, the Slave Trade is still carried on to a considerable extent.

10th, *Sun.* Clarkson and Brougham called on me by appointment on the same subject, and we discussed together the difficulties attending it, which are very considerable.

* This Bill was brought into the House by Brougham, March 5th, and it passed through both Houses without opposition.

12th, *Tu.* The Regent did not come in person to the Parliament, but his speech was delivered by commissioners.

13th, *Wed.* I moved in the House of Commons for the same returns of the number of convicts and their offences, as I had moved for in the last Session (May 4th), but which have never yet been made.

16th, *Sat.* I happened to-day, at dinner at the Duke of Gloucester's, to sit next to Lord Hutchinson, *Cruel military punishments.* and had a good deal of conversation with him on the subject of military punishments. He is a great enemy to those ignominious and cruel punishments which are now continually resorted to. He told me, that while he was at Gibraltar, a soldier, whose only offence was that he had come dirty upon the parade, was flogged with such severity that he died, a few days after, in consequence of the punishment. He mentioned, too, a very recent instance of a man who had been thirty years in the guards; and his conduct there having been irreproachable, (he not having, even in a single instance, incurred the displeasure of his officers,) had been removed into the veteran battalion in the Tower; and who there, because he had been absent a day, had, at the age of sixty, been sentenced to receive three hundred lashes, and had had the sentence actually inflicted on him.

21st, *Th.* Leave was given me, in the House of Commons, to bring in the same three Bills as I *Criminal Law.* brought in last Session. No opposition was made to the motion, though some conversation took place on the subject of them¹.

¹ In the course of his speech Sir S. Romilly said: "It is not from light motives that I have presumed to recommend an alteration in a matter so important as the Criminal Law of the land. I have always thought that it was the duty of every man to use the means which he possessed for the purpose of advancing the well-being of his fellow creatures; and I am not aware of any way in which I can advance that well-being so effectually as by adopting the course which I now pursue. Lord Coke used to say 'that he considered every man who was successful in his profession as under an obligation to benefit society; ' and the works which that great and learned man produced,

22nd, *Fri.* I published a second edition of my pamphlet on *Criminal Law*, of 500 copies. The first edition was of 1500¹.

after a life of labour in the high situation in which he was placed, were his mode of paying the social debt. So, for myself, my success and my good fortune in my profession have laid me under a debt to the society amongst whom I live; and the way in which I intend to discharge that obligation is, by endeavouring to meliorate the law, and thus to increase the security and happiness of my country. It is not a little that will discourage me. I am not to be discouraged by the consideration that I have hitherto spent a great deal of time on this subject without doing much good."—ED.

¹ The following letter from Dr. Parr, on the subject of this pamphlet, was received by Sir S. Romilly in January preceding:—
ED.

“Dear Sir,

“ Hatton, Jan. 22, 1811.

"I have just been reading a book which contains some very sensible observations on criminal law, and as I am sure you would not dislike reading it, I subjoin the title^a. If you cannot get it in London, I will send it to you in any way you may point out. The writer holds many opinions in common with you and myself, but evidently writes under restraint.

"I shall now say a word or two, which I have long wished to say, about one part of your inimitable book. If a man is condemned, has a bad character, and is executed, you state, or seem to state, that he is hanged for that for which he was not condemned. I have heard many sensible men complain of this passage as sophistical; and even to me it appears incorrect. In the course of a trial, the law *wisely* permits general evidence to be given for a prisoner, and *humanely* forbids it to be given against him. The permission is wise, because, when the proofs of a particular action are doubtful, the presumption arising from general good character ought to give a leaning to our judgments in favour of the person's innocence. The prohibition is humane, because our common sense of human infirmity makes us content with the rigours of punishment assigned to an offence, because general reproach is vague, and because men are prompted by the most unsocial feelings to speak evil of their fellow creatures, and from personal prejudice to catch at any opportunity for destroying them. Thus far all is well; and the object, in these cases, is to secure as much proof as can be obtained in a doubtful cause, or to admit only the most direct proof, where the penalty after condemnation is severe. But when the sentence has been passed, I cannot help thinking that the execution of it may sometimes be governed

** Observationes quædam Juris tum criminalis tum publici, ad L. Quisquis 5 C. ad L. Jul. Majestatis. Auctore Fred. Barone van Leyden.*

27th, *Wed.* I presented two petitions to the House of Commons; one from the proprietors of bleach-greens in the North of Ireland, and the other from the master calico-printers in the vicinity of London, stating that their property, while lying out to be bleached, was subject to con-

*Petitions of
the owners of
bleaching
grounds
against capital
punishments.*

by circumstances. Surely the 'salus publica' is less endangered when a man, generally good, experiences some mitigation of punishment, than when a man generally bad. Upon a principle of utility, even if our feelings of humanity were out of the question, there is less chance of a repetition in one case than in the other; and upon the principle of example, which if it be not the sole, certainly is the chief justification of punishment, the mitigation of it will operate as an encouragement to that general goodness which is ascribed to the offender.

"There is, indeed, one consideration in the case of bad men which ought to have much greater weight than it usually has in the minds of Judges. Dislike from party, quarrels with servants or neighbours, offence justly or unjustly taken in a quarrel, jealousy about game, and twenty other matters of the same sort, frequently induce men to wish to get rid of a convicted person: and well does it behove every Judge to be sure that the person who recommends the execution of the sentence is a man of veracity, of sense, of impartiality and kindness of nature in the habitual character of his mind. I remember hearing from Sergeant Whitaker that, while he was trying a man for a capital offence at Norwich, a person brought him a message from the late Lord Suffield, 'that the prisoner was a good-for-nothing fellow, and he hoped the Judge would look to him;' and the Sergeant kindled with indignation, and exclaimed in the hearing of the Court, 'Zounds! would Sir Harbord Harbord have me condemn the man before I have tried him?' What Sir Harbord did during the trial, many squires and justices of the peace, upon other occasions, do after it; and were I a Judge, I should listen with great caution to all unfavourable representations. The rich, the proud, the irascible, and the vindictive are very unfit to estimate the value of life to their inferiors.

"But let us return to your position. The man is condemned for what he did, and is hanged because he is condemned. Now he suffers for that particular deed, *as well as* for that which he is accused of having done at other times. I therefore think your position incorrect. To be sure you may contend that accusations of this kind are often brought, not only from very bad motives, but with very slender proofs, and that the proofs ought to be very strong before they should be permitted to have any influence in the infliction of death. You may farther contend, that the particular offence which produces condemnation ought, in its own nature, to be such as will generally warrant the destruction of the offender; and then

tinual depredations, which the laws that punished the offence with death had been found ineffectual to restrain ;

room will be left open, as from the unalterable necessity of human affairs it sometimes will be, for a conflict between two general principles. I mean what is called the certainty of punishment on the one hand, and the possible consistency, *under all circumstances*, of a mitigated punishment with the public good. Circumstances of greater or less importance will belong to almost every case ; and the judgments of men, as well as their feelings, will be less dissatisfied when mercy is refused to a man habitually and notoriously dangerous to society. As matters now stand, the offences of which a man is not convicted are often more dangerous to the community than that of which he is convicted. But, even in such a case, I should often be unwilling to let the law take its course, unless the crime which has been proved is of such magnitude as, considered by itself, requires, for the public safety, the destruction of the individual. If the offences imputed to him were ever so numerous, ever so flagrant, ever so notorious, I would not hang him unless I saw something like proportion on the ground of utility between the offence charged and the appointed punishment. My good friend, I myself could not help feeling something of dissatisfaction and perplexity in that part of your book to which I am advertинг. I saw in it something of tartness and verbal cavil ; and, as the subject is of very high importance, I could wish you to revise what you have written. Surely the laws are not unwise where they take notice of repetition : but then it is always assumed that the repetition has been legally proved ; and it is obvious that, by repetition, the injury done to the public is greater, and the chance of future injury is increased, by future repetition. I am not looking to the probable incorrigibility of the offender as it regards himself, but as it regards the community ; and if example be of use in preventing one offence, it is also of use in preventing more than one. The whole business deserves your best consideration. I, at this moment, recollect with great pleasure your shyness in the use of the word *deserve* ; and upon moral as well as legal questions, I have often observed the ambiguity and fallacy which lurk under it. Theologians are just as positive, and just as mistaken, and just as mischievous in the use of it as the lawyers. Pray let me ask whether you have ever read some admirable remarks of Mr. Hutcheson upon the word *merit* ? I remember a controversy I had with Dr. Johnson upon this very term : we began with Theology fiercely, I gently carried the conversation onward to Philosophy, and after a dispute of more than three hours, he lost sight of my heresy, and came over to my opinion upon the metaphysical import of the term. Let me beg of you again and again to raise and to keep up doubts in the minds of your hearers by the peculiar, just, and most important hesitation which you, and you among our public speakers only, manifest in the use of this popular and delusive term. You know enough of the world not to be sur-

that they had found that, from the lenity of prosecutors, and the unwillingness of juries to convict, the law, in its present state, generally secured impunity to offenders, and operated as an encouragement to the commission of crimes; and they prayed that the Acts which made these offences capital might be repealed. At the time of presenting the petitions I gave notice of a motion to repeal the two Acts. The Irish petition was signed by 150 persons, being a very great majority, and consisting of all the principal houses concerned in this branch of trade. The English petition was signed by only 24 names; but the trade in the neighbourhood of London, that is, to the extent of fifteen miles, is in very few hands; not more than thirty, as I was informed by the gentleman who gave me the petition. More would have signed both petitions,

prised that, from the particular passage in your book to which I allude, rash or shallow men take occasion to say generally that your publication abounds with cavils. I have challenged some of my acquaintance to produce instances, and the only one of any consequence is that on which I am now writing to you. It seems to me that both you and your opponents pass by a part of the case, or at least undervalue it. You lay too little stress upon the offence which has been proved, and they lay too little stress upon the aggravations which are imputed, but have not been proved, or at least are attended, very frequently, with imperfect proof.

“ Well, I hope that these Regency squabbles are nearly at an end. After all, dear Sir, some bold and mighty principles have found their way into your debates, and hereafter will turn to account. But what is to become of the country under the feeble and divided government which Lord Eldon and Mr. Perceval have provided for us? One of my comforts is, that men of all parties seem to be pleased with you. Pray give my best compliments to Lady Romilly, Sir Arthur Piggott, and Mr. Sergeant Lens. I beg of you not to give yourself the trouble of answering this letter, except as it relates to the Latin juridical book; and one little dozen of words, monosyllabic or dissyllabic, will be sufficient to let me know whether and how I am to send it to you. As Sergeant Lens retains, I suppose, a good deal of his old fondness for classic lore, I wrote him a long rigmarole letter about the word *calumnia*. Pray desire him not to give himself any trouble at all about answering it. But let him tell you, and do you tell me, in two or three words, whether he agrees with me. I may hear his reasons when I see him.

“ I am, dear Sir, with the very greatest respect and greatest regard,

“ Your admirer, friend, and obedient humble servant,

“ S. PARR.”

but it was thought desirable not to wait for more signatures. Both these petitions were set on foot and promoted by Quakers.

March 4th, Mon. Leave was given me, in the House of Commons, to bring in Bills to repeal these two Acts. On the same day, Ryder (the Secretary of State) moved for a committee to inquire into the expediency of erecting *Penitentiary houses.* I had myself given notice of a motion on this subject; and had intended to move an address to the Regent, to give directions for carrying the two Acts for building penitentiary houses into execution, as I had moved in the last Session. But, knowing that there would be no use in insisting on this against the wishes of the Ministry, I gave way to Ryder, and I contented myself with moving that it should be an instruction to the Committee to inquire into the effects which have been produced by the punishment of transportation to New South Wales, and of imprisonment on board the Hulks. This the Ministers agreed to. I am named on the Committee, but shall not be able to attend it, or at least very rarely.

The resolutions of the House were in these words: "That a Committee be appointed to consider of the expediency of erecting a penitentiary house or penitentiary houses, under the Acts of the 34th and 19th of his present Majesty; and in case the adoption of the measure now referred to their consideration should appear to them to be for the advantage of the public, to report whether any additional legislative provisions will be wanted for that purpose; and what number of persons such penitentiary house or penitentiary houses should, in their judgment, be calculated to receive; together with any observations which they may deem material upon the subject of their inquiry;" and it was ordered, "That it be an instruction to the Committee to inquire into the effects which have been produced by the punishment of transportation to New South Wales, and of imprisonment on board the Hulks; and to report the matter, as it shall appear to them, to the House, together with their observations thereupon."

7th, Th. Mr. M. A. Taylor moved in the House of Commons that a committee should be appointed to inquire into the state of the appeals in the House of Lords, and of causes in the Court of Chancery. He founded his motion upon the fact of there being in both these Courts delays in the hearing of causes, which were intolerable to the suitors. I thought it impossible for me, who know how great an evil this is, not to speak upon such a motion. It was at the same time extremely unpleasant to me to take any part in it. My opinion is, that the Chancellor's hesitation and delays, and habits of procrastination, are the principal, if not the only, causes of the evil; but it is impossible for me, who am constantly attending his Court as counsel, with any decency to state this to the House *. All that I thought I could do with any propriety (and which I did) was to state the extent of the mischief, and to impress upon the House how urgently it called for a remedy; and to observe that it appeared to me that the causes of this evil were merely temporary, and did not require any such remedy as a permanent increase of judicial offices. This I said, because it has been rumoured that some plan had been in agitation for appointing a second Master of the Rolls. I said of the Chancellor all the good that can be said of him,

Delay in the hearing of causes in the House of Lords and Court of Chancery.

* Upon Whitbread's motion made last ——¹ for an inquiry into Lord Eldon's conduct during the King's illness in 1804, I voted for the motion. There were indeed six of us who were all counsel attending in his court, and who upon that occasion voted against the Chancellor:—Sir A. Piggott, H. Martin, Leach, Greenhill, Wrotteley, and myself. These, too, are all the counsel attending his Court who are members of Parliament, except Giffin Wilson, who voted for him, and Abercromby, who, having been made a Commissioner of Bankrupts by the Chancellor, through respect for his illustrious father Sir Ralph Abercromby, thought it right to be absent. Kenrick, who voted for the Chancellor, used indeed to attend the Court, but had no business, and now seldom attends. G. Wilson and Kenrick on all occasions vote with the Ministers.

¹ This motion was made on the 25th February, 1811, and was lost by a majority of 117;—the numbers being, for the motion 81, against it 198.—ED.

and I only hinted at his defects. I observed of him, that, in point of learning in every part of the profession, and in talents, he had hardly ever been surpassed by any of his predecessors ; and that, in anxiety to do justice to the suitors of his Court, he had perhaps never been equalled ; that he carried this merit to an excess, and that his fault was over anxiety to do justice in each particular case, without considering how many causes are waiting to be decided. I spoke, too, of his great attention and kindness to the Bar. In stating these things, I can hardly be accused of flattery, for I sincerely think that he has these merits. I did not profess to give his character : I was not called upon to state his defects, and it would have been inexcusable in me to have done it. Perceval had said that the cause of the delay was to be found merely in the increased business of the Court, proceeding from the augmented commerce and wealth of the nation, which he said had outgrown its establishment. I stated that I could not concur in this opinion ; and that, from the information I possessed, I doubted very much whether there had of late years been any great increase of the business of the Court, except the business respecting bankruptcies.* In that department there certainly had

* I have since caused a search to be made in the Six Clerks' Office, and the comparative numbers of Bills filed in the first and in the last ten years of the present King's reign are as follows :—

1760	1383	1800	1459
1761	1521	1801	1402
1762	1607	1802	1506
1763	1636	1803	1499
1764	1696	1804	1706
1765	1606	1805	1530
1766	1590	1806	1582
1767	1635	1807	1747
1768	1503	1808	1892
1769	1571	1809	1922
<hr/>		<hr/>	
	15,748		16,245
		<hr/>	
			15,748

More Bills filed from 1800 to 1809 than from 1760

to 1769—not one-thirtieth 497

The number in 1760 is not accurate; all the Bills filed in one letter of the alphabet being wanting.

been a great increase, but I conceived that, too, to be merely temporary. In the last year the number of commissions of bankruptcy had been double that of the preceding year, but this arose entirely from accidental causes, which could not be expected to occur again.

Adam moved that the debate should be adjourned for three weeks. Even this Perceval opposed ; and, upon a division, the numbers were, for the motion 47, against it 79.¹ The original motion was then got rid of by the previous question.

8th, Fri. What has passed to-day in the Court of Chancery affords a strong exemplification of Lord Chancellor Eldon. my assertion of yesterday, that the Lord Chancellor was over anxious to decide properly. He has for a long time had a great number of cases which have been argued before him, waiting for his judgment to be pronounced—some original causes, and many more motions and petitions. The distress which is occasioned to many parties by this is hardly to be conceived. On this day three cases were, by his order, put into his paper, for him to deliver his judgment. Of two of them, he merely directed that they should stand over till the following Monday, without giving any reason : the third was a case of *Foster v. Bellamy*. It was a Bill filed by a pauper to redeem a very old mortgage, the plaintiff alleging that he was the heir-at-law to the mortgager. The defendant disputed the fact of his being heir, and the plaintiff had gone into evidence to prove his title ; but the evidence was so unsatisfactory, that all that I, who was counsel for the plaintiff, could do, was to ask that an issue might be directed to try the fact of his being heir. Of this case, which had been argued before the long vacation, the Lord Chancellor said to-day, that he had read all the evidence over three several times, and that he did not think that there was sufficient proved to warrant his directing an issue, but that, as it was the case of a pauper, he would go over all the evidence once more ; and for that purpose he directed

¹ The number, as stated in the Journals of the House of Commons, is 78.—ED.

the cause to stand over generally, without appointing any time for his final determination. He thus condemns all the other impatient suitors to continue waiting in anxious expectation of having their causes decided, till he shall have made himself quite sure, by another perusal of the depositions, that he has not been already three times mistaken.

12th. Whitbread having put into my hands a Bill for the *Parish Apprentices* better regulation of parish apprentices, which it is proposed by Mr. Bootle to bring into the House,* I this day returned it to Whitbread, with a letter containing my observations on it. The principal evil which it is intended by the Bill to remedy is the binding children apprentices, by parish officers, to masters residing at a very great distance from the parishes to which the children belong, and where their parents are resident. This is an evil which has grown of late years to a very great magnitude. It is a very common practice with the great populous parishes in London to bind children in large numbers to the proprietors of cotton-mills in Lancashire and Yorkshire, at a distance of 200 miles. The children, who are sent off by wagon-loads at a time, are as much lost for ever to their parents as if they were shipped off for the West Indies. The parishes that bind them, by procuring a settlement for the children at the end of forty days, get rid of them for ever; and the poor children have not a human being in the world to whom they can look up for redress against the wrongs they may be exposed to from these wholesale dealers in them, whose object it is to get everything that they can possibly wring from their excessive labour and fatigue. Instances have come to my own knowledge of the anguish sustained by poor persons, on having their children thus for ever torn from them, which could not fail to excite a strong interest in their favour, if they were more generally known. Instances have recently occurred of masters, who, with 200 such apprentices, have become bankrupts, and been obliged to send all their apprentices to the poorhouse of the parish in which their

* The Bill was brought in by him on Tuesday, April 9th. *Vide infra*, 7th June, 1811.

manufactory happened to be established, to be supported by strangers, and by strangers who consider them as fraudulently thrown upon them for relief. The objects of the Bill are to prohibit the binding of parish apprentices at a greater distance than forty miles; to oblige parish officers to visit and inquire into the treatment of the apprentices they bind out; and to shorten the period of parish apprenticeship, in all cases which the magistrates shall think proper, to five years.¹ All these objects appear to me to be very good, and I have only suggested some alterations in the Bill, and mentioned the propriety and expediency of repealing the statute of Queen Elizabeth, which makes the serving a seven years' apprenticeship necessary to the setting up any trade. I have also suggested the expediency of postponing the payment of the premiums which are usually given with parish apprentices, till after some part of the term for which they are bound shall have elapsed. Instances (and not very few) have occurred in our tribunals, of wretches who have murdered their parish apprentices, that they might get fresh premiums with new apprentices. If the payment of the premium were postponed till the end of the whole, or a certain portion of the term; and if it were made necessary that the master should produce the child when he claims the premium, the premium would operate, not as it now does, as a motive for the destruction of the child, but as an insurance on his life. I suggested this in my letter to Whitbread. These are subjects to which many years ago I gave much attention, but I have never before met with any opportunity of doing any thing useful with respect to them.

In the Mutiny Bill of this year, Sutton, the Judge-Advocate, has caused a clause to be inserted to *empower* military Courts Martial to imprison *Military punishments.* instead of inflicting corporal punishment. This is intended to prevent the inflicting of such corporal punishments as are now in use, to the extent sometimes of

¹ Another provision of the Bill, as it was brought in, was to put a limit upon the number of apprentices who might be bound to one and the same master.—ED.

1000 lashes. I entertain some doubt, however, whether it will have this effect.

19th, Tu. I opposed, upon the second reading, a Bill for *Spilsby Poor Bill.* regulating the poor of Spilsby and nineteen adjoining parishes in the county of Lincoln, and erecting a house of industry, on account of some extraordinary penal clauses contained in it. One of these clauses empowered the master of the poor-house to punish any of the poor maintained in it for what he might deem misbehaviour, with solitary confinement, and that without limit; another made the offence of damaging the house, after it should be erected, or any of the fences about it, felony; a third enabled the directors of the poor to let out the paupers, by the day or the week, to any persons they might think proper, to labour for them; and a fourth empowered the overseers of the poor of any parish in the county of Lincoln to contract with the directors of the poor of Spilsby for the maintenance of their poor; and enacted that, upon such contract being entered into, the poor of all such parishes should be transferred to the house of industry at Spilsby, and be there subject to the same punishments and regulations as the poor of Spilsby.* No person in the House knew that there were any such clauses in the Bill, and the second reading was put off for a week. Lord Walsingham, the chairman of committees in the House of Lords, drew my attention to this Bill, in consequence of what I had said last Session on the Lambeth Poor Bill. But for this circumstance the Bill would have passed as a matter of course, without any notice being taken of it; and I believe without any person, not even the mem-

* By another clause in the Bill the directors have power to inflict corporal punishment on all the poor, of whatever age, in the house of industry. (See p. 18.) Another clause empowers the directors to compel all poor persons in the parishes, whom they shall find to want relief, whether they apply for it or not, to go into the house of industry, (p. 15.) Authority, too, is given to the directors to enter into the houses of poor persons, at any time in the day, to discover whether there are any persons there who are in want, or who are accustomed to beg, and to carry them to the house of industry, (p. 17.)

ber who brought it in, knowing what was contained in it.¹

26th, Tu. The Spilsby Poor Bill came on again to-day, and Mr. Chaplin, one of the members for Lincolnshire, proposed that it should be postponed *Spilsby Poor Bill.* for a month, in order that the objectionable clauses might be omitted, and that the Bill might be new-modelled. Many members, however, thought that a Bill containing such highly objectionable clauses ought not to be entertained by the House at all. At their suggestion, therefore, I moved, in order to get rid of the Bill altogether, that, instead of being read on that day month, it should be read on that day six months, when the House would not be sitting: and that motion was carried without a division. The rejection of this Bill will probably have the good effect of preventing in future the bringing in Bills with similar clauses.* Some more effectual measure, however, is necessary to put a stop to this parochial legislation, which is rapidly spreading through every part of the kingdom. The powers of magistrates are transferred to parish officers; the necessity of proofs upon oath previous to punishment is dispensed with; and the means of vexation and oppression are placed at the entire disposal of a number of petty local tyrants, just at the pleasure of the attorney who draws, or the committee of the parish who give instructions for, these Bills, which generally pass through the House unnoticed by any one.† Even those who are disposed to watch such Bills

* Some strong observations on this Bill have been made in Cobbett's *Weekly Register* of Saturday, March 30th.

† In the spring of 1813, a Bill was brought into the House, amongst other things, to repeal all these clauses in local acts, by declaring that it should not be lawful for any master or any other person having the superintendence of a poor-house, or churchwarden,

¹ The second reading of this Bill was moved by Sir James Graham, who, on Sir S. Romilly's resuming his seat, is reported to have said that he did not know such clauses were in the Bill, and that he believed the members for Boston and Derby (in whose absence he had taken charge of the Bill) were not acquainted with what had been stated by Sir S. Romilly. See *Hans. Parl. Deb.*, vol. xix. p. 433.—ED.

most anxiously must find their vigilance continually eluded. In the very last Session a Bill was passed; which enables the assistant overseer of the parish of Brighthelmstone to punish any person, received into the workhouse, who shall be guilty of using any abusive or improper language, with solitary confinement for forty-eight hours; and which empowers any five of the directors or guardians, without any proof or examination on oath, to imprison and keep to hard labour for fourteen days any person who shall be found wandering or committing any act of vagrancy in the parish: and these clauses are in a very long Bill, the title of which makes no mention whatever of the poor. In its title it purports to be a Bill only for paving, lighting, and cleansing the town, removing nuisances, regulating the market, regulating weights and measures, and building a town-hall (50 Geo. III. c. 38; see sections 161 and 165*). In the same Session a Bill passed for regulating the poor in the parish of St. George the Martyr, in Southwark (50 Geo. III. c. 45), which empowers any one churchwarden or overseer to cause any children, under the age of fifteen, who shall be found wandering in the parish, to be sent to the workhouse and detained there till he shall attain the age of fifteen; and to cause any person who shall be found wandering, begging, or committing any act of vagrancy or riot, to be sent to the workhouse and detained there as long as the churchwardens and overseers shall direct; and

overseer, or other person having, under the authority of any local Act, the management of the poor, to confine any poor person longer than forty-eight hours, or to punish any adult person with corporal punishment. The Bill was put off, and Kenrick, who brought it in, undertook to bring in a similar Bill in the next Session. A similar Bill was brought in by Kenrick in 1814, and, with some alterations, passed. It is the statute 54 Geo. III. c. 170. Another Act on this subject passed in 1816, brought in by Sir Robert Heron, 56 Geo. III. c. [130].

* 13th Dec. 1813. The House of Commons came to a resolution, on the motion of Mr. Horner, that no Bill should be presented to the House relating to poor-rates or to the maintenance or employment of the poor, or to workhouses, containing any clause whereby the general law of settlement of the poor shall be departed from, or any power of corporal punishment given to any persons employed in the management of the poor.

which, in case of misbehaviour, authorises the same methods of punishment to be used with them as with other poor kept in the workhouse. The contents of this clause are described in the marginal abbreviations of the Bill in these words, "for receiving distressed children." Another Bill, which passed in the same session, with respect to the poor of St. Paul's, Shadwell (50 Geo. III. c. 208), enables any seven of the trustees of the poor to send any children found wandering in the parish, whom they shall judge to be under the age of fourteen, to the workhouse, to be detained there till they (the trustees) shall judge that they are of the age of twenty-one; and it enables the same number of trustees to send any person who shall be found to misbehave himself to the workhouse, there to be detained and employed as long as they shall think proper, and to be subject to the same punishment as other poor in the workhouse.

On the same day, 26th of *March*, Mr. Lockhart moved for leave to bring in a Bill for registering charitable donations. I said that I thought the Bill would be of little use. That charitable institutions Abuses in Charitable Institutions. were very grossly abused was that which admitted of no doubt; but the continuance of these abuses did not proceed from ignorance of the nature of the charitable institutions, for the nature of the institutions, and the abuses committed with respect to them, were notorious; but from the difficult and expensive nature of the remedy provided by the law, which deterred men from having recourse to it. The only remedy at present was by information filed by the Attorney-General in the Court of Chancery, which admitted (in the case of trustees who were desirous of resisting the interposition of the Court by wearying out their opponents) of such expedients of delay and multiplying expense (and that, too, by those who had in their hands the charity funds with which to carry on the litigation), that it was very wonderful that any persons had public spirit and perseverance enough to become the relators in such informations, and to prosecute them to a final decree. I said that the true remedy for this evil was to put an end to all

this expense and delay, and to enable the Chancellor and the Master of the Rolls to act (as the Chancellor already does in cases where he has a visitatorial authority) in a summary way, upon petition and affidavits. If this mode of proceeding were adopted, I said, I had little doubt that these evils would soon be corrected.

28th, Th. Lord Folkstone moved that there should be laid before the House of Commons an account of the informations which had been filed by the Attorney-General, *ex officio*, for libels, from the year 1800 to the present time; together with an account of the proceedings which had been had under such informations respectively. He stated that the number of such informations which had been filed by the present Attorney-General (Sir V. Gibbs) exceeded very greatly the number of those which had been filed by any preceding Attorney-General in the same period of time: that the yearly average, from the beginning of the present reign to within the last three years, had been two; but that in the last three years there had been filed forty informations, being at the rate of nearly fourteen a year: that the Attorney-General had shown great partiality, and had filed several informations which he never brought to trial, but kept suspended over the heads of the defendants. The Attorney-General entered into a long defence of his conduct, but opposed giving to the House the information required. I supported the motion, not on the ground of its appearing that the Attorney-General was censurable, but on the ground that it was extremely important that the information called for should be laid before the House. I said, that, as the information required respected prosecutions carried on by a public officer for the benefit of the public, and at the public expense, and related to a subject of such importance as the liberty of the press, it was necessary, in order to justify the withholding it, to show that some material detriment would ensue to the public service by producing it; that this, however, was not pretended. But it was said that the conduct of the Attorney-General was not only not culpable, but highly meritorious, and that

the papers were called for only to ground a censure upon him. His conduct might be meritorious, but it should be recollected that the charge consisted only of a statement of facts ; that the defence, too, consisted partly of denial and partly of a very different statement of facts. It would seem not a little extraordinary if, in such a state of the question, the House were to refuse to ascertain, as it might in the most authentic manner, what the facts really were. If there were any foundation for the charge, the information ought undoubtedly to be obtained : if there were no foundation for it, it was, if possible, more important that the information should be given, in order to convince every one that there was no foundation for it, and to remove those suspicions which certainly existed, and which it was most desirable should be completely removed. I said that it was extraordinary that the Attorney-General, having such an opportunity of justifying himself and of showing that he was entitled to the approbation and applause which were claimed for him, should choose to forego it, and should prefer leaving hanging over him suspicions which it was said he could entirely dispel ; that, considering how often such a mode of proceeding was adopted, it was really surprising that persons in public situations should obtain the credit which they did by declaring that they held themselves to be responsible ; that this responsibility was become an unmeaning word, if no inquiry was ever to take place ; that it was well known that, while a Minister was, as it were, boasting of his responsibility, and stating his anxiety to be judged by the public, the very men who loudly applauded the magnanimity of that sentiment were to be found the next day constituting a majority who resolved that there should be no inquiry, although without such inquiry no man could be responsible. In this I alluded to what had lately passed on the subject of the Regency, and of the inquiry proposed by Whitbread into Lord Eldon's conduct. I said that I was myself in some degree interested in the event of the motion ; since it was not confined to the acts of the present Attorney-General, but extended to those of his predecessors in office for the

last ten years; and that, while I was Solicitor-General, there had been no information filed, and none which it had been determined not to file, on which I had not been consulted; and that upon all of them I had concurred entirely with the then Attorney-General. I took notice of what had been said of the present extraordinary licentiousness of the press, and observed that there hardly ever was a time in which the press was not thought to be extraordinarily licentious by those who were in office, and by their near connexions; but that, if it were really true that the press was at present more than usually licentious, this fact seemed to afford the strongest argument in favour of leaving it free; since it must have become thus licentious in consequence of greater restraints having lately been imposed on it than had existed before for a century. I meant the restraints imposed on the publishers of newspapers by the Act of 38 Geo. III., and on printers of every description by the Act of 39 Geo. III.¹

29th, *Fri.* On the second reading of the Bills which I ^{Criminal Law.} have brought in to take away capital punishments in several felonies, Perceval opposed them; but after a pretty long debate they were carried by a majority of 26; for them 79, against them 53. This having been the division on the Bill relating to stealing in dwelling-houses, which Perceval said that he considered as the most objectionable, the others passed without a division.

In the course of the debate, Frankland produced some written answers, given by the Recorder of London and the Common Sergeant, to questions put to them by the Solicitor-General, and which the Solicitor-General, being obliged himself to be absent on his circuit as a Welsh Judge, had put into Frankland's hands to be used upon this occasion. The opinions of the Recorder and Common Sergeant were decidedly against the expediency of repealing the Acts which inflict capital punishments in

¹ On a division the numbers were,—for Lord Folkestone's motion 36, against it 119.—*Ed.*

these cases ; and they stated that of late years these offences had very greatly increased. A better reason than this for altering the law could hardly be given, unless statutes were passed not to deter offenders and prevent crimes, but to encourage and to multiply them. If an alteration is to be made, it can only be by lessening the punishment and very seldom remitting it ; for, in the way of severity, no alteration can be made, since no person would approve of a law to introduce the rack or breaking on the wheel.

April 5th, Fri. In a committee of the whole House, upon a Bill brought in by H. Martin, to mitigate the severities of the Act of 39 Geo. III. Law relating to Printers. relative to printers, I suggested the propriety of limiting the amount of penalties which might be exacted for printing any number of impressions of one paper to some certain sum. The Attorney-General adopted this suggestion, and consented to limit them to 50*l.* As he had proposed originally to alter the Bill, justices would have had a power of mitigating, indeed, if they thought proper, but might also, if they thought proper, exact the penalty of 20*l.* for every copy ; consequently, for a work of 1000 or 1500 copies, 20,000*l.* or 30,000*l.*—a much greater punishment for disobeying a law (which was only intended as a measure of precaution to make it difficult for a person to publish libellous or seditious writings without exposing himself to punishment) than the Court of King's Bench could, consistently with the Bill of Rights, inflict for the most seditious and dangerous libel.

8th, Mon. On the third reading of the Bill to take away the punishment of death for the offence of stealing to the value of 40*s.* in a dwelling-Criminal Law. house, the numbers on a division were, for it 50, against it 39. Ryder (the Secretary of State) and the Attorney-General both spoke against it ; and Treasury letters had been sent out requiring an attendance. The Ministers, however, were not able to procure more than 39 members to vote against the Bill. The other four Bills

to take away capital punishments passed without a division.¹

21st, Sun. I passed the last week, being Easter Week, at Mrs. Fisher's at Ealing, with Anne and some of the children, and returned to-day. I have spent my time principally in answering some cases, and in reading as much as is printed of Bentham and Dumont's work on punishments (*Théorie des Peines Légales*). It begins by stating what are the qualities to be required in punishments, and then proceeds to analyse all the punishments which are now in use. It is executed admirably, and it never was attempted before. Penal legislation hitherto has resembled what the science of physic must have been when physicians did not know the properties and effects of the medicines they administered.*

May 15th, Wed. On the claim of the Earldom of Berkeley, I this day summed up the evidence in the Committee of Privileges in the House of Lords.

17th, Fri. Michael Angelo Taylor again brought the delays which prevail in Chancery and in the House of Lords under the notice of the House. His motion now was, that a committee be appointed to inquire into the causes which have retarded the decisions of suits in the Court of Chancery; and he said that, if that were carried, he should move for a

* This work was published in July, 1811, in two volumes, octavo, under the title of *Théorie des Peines et des Récompenses*.

¹ On this occasion Mr. Whitbread spoke in favour of the Bills and of the general principle of Sir S. Romilly's proposed alterations in the criminal law. He concluded his speech by saying that "the public opinion on the subject of this Bill might be seen from the rise of his honourable and learned friend even from the high eminence on which he formerly stood in public estimation. His finding time from his severe avocations to pursue this excellent and beneficent plan, after all the political feuds of this day were forgotten, would transmit his name with honour to posterity as the benefactor of his country. Some men, by their virtuous exertions, acquired fame after their death; but, of his honourable and learned friend, his country might, in his lifetime, say, 'Presenti tibi largimur honores.'" *Hans. Parl. Deb.*, vol. xix. p. 744.—ED.

committee to inspect the Lords' Journals, in order to ascertain the state of the appeals in their House. Perceval, as on the former occasion, so on this, moved the previous question. The reason he had before given was, that a committee was immediately to be appointed in the House of Lords to consider of a remedy for the evil; and he now said that such a committee had been appointed, and had prepared a report which would be immediately made. He afterwards, however, consented to waive the previous question, and to concur in a motion to adjourn the debate till next Thursday.¹ I opposed this motion, and pressed the House to consent to the immediate appointment of a committee. I said that, whether the Committee of the House of Lords or Ministers were about to suggest a remedy or not, it was important that no time should be lost in ascertaining the causes of the evil, and particularly whether they were of a permanent or of a temporary nature: that, till this was done, it was impossible to determine what the nature of the remedy should be: that I understood that it was intended to propose the appointing a permanent additional Judge in the Court of Chancery, under the title of Vice-Chancellor, or Second Master of the Rolls; who was, as well as the present Master of the Rolls, to hear all the original causes, and that the Chancellor was to be reserved to hear causes upon appeal and motions only, and petitions in Bankruptcy and Lunacy; in order that by such means he might have more time to devote, as Speaker of the House of Lords, to hearing appeals in that House: that, as I knew that, when this project came in the form of a Bill, there would be little opportunity of discussing its merits, particularly at so late a period of the session, I thought it right to avail myself of this occasion for stating my objections to it: that it appeared to me that such a plan would not only have the effect of altering the constitution of the Court, but that there would be great risk that it would totally alter the law which is administered in the Court: that it was in my

¹ The motion for adjournment was carried by a majority of 40 to 19.—ED.

opinion extremely important that the Lord Chancellor (on whose opinion the system of law there administered so much depended that it had in truth been the creation of former Chancellors, particularly of Lord Nottingham) should be a person to whose mind the doctrines of the Court were familiar, by his being in the daily habit of applying them to the cases which came before him: that it would quite alter the nature of his office if he were to be merely a Judge of Appeal,—to be sitting ordinarily in another place, and to be paying occasional visits to the Court of Chancery, in order to decide on the doctrines of the Court only when the suitors were dissatisfied with the decrees of the ordinary judges there: that very different qualifications would be necessary to fill the office, if so altered, from those which were now thought requisite to a Chancellor: that the system of Equity had grown up to what we now find it, by being formed of the decisions of a single judge; and that it was impossible to say what would be the effect of having two judges sitting to decide original causes, and, according to the bias of the mind of each, gradually deviating in contrary directions from what were now supposed to be the doctrines of the court: that if, as I supposed to be the case, the evil was temporary, and the arrears had been collecting only within the last ten years, it was probable that in a very few years after the appointment of this new judge the evil would be completely removed; and that, as a plaintiff may set down his cause where he pleases, and as one Master of the Rolls would probably be, or might be, more a favourite with the profession than another, it might happen that, in a short time, one of the offices would become something very like a sinecure: that it was very objectionable (unless it were necessary in order to remedy a greater evil) to increase the patronage of the Crown in the profession of the law, and to hold out to its members new objects of ambition at the disposal of Ministers; that the additional expense, too, of the salary of this new judge was not to be disregarded: that these were all matters which at least required very serious consideration before the Legislature adopted any such plan as was in contemplation: and that, in order

properly to consider these matters, it was necessary to be in possession of facts of which the House was at present wholly ignorant. I likewise intimated that, if the Committee were refused, I should probably move for returns of the state of the Court of Chancery now and at some former periods,¹ which would produce some of the information which it was intended should be got through the medium of a committee. I stated that I believed that the arrear and delays complained of had all arisen within the last ten years, and that the evil, being temporary, might well be remedied by some temporary expedient; and that this great hazardous alteration in the law and constitution of the Court was by no means necessary.

24th, *Fri.* I joined with many other members in opposing a Bill to prevent any person gaining a *The Poor Laws.* settlement as a pauper by renting a tenement of 10*l.* a-year, unless the tenement was one entire tenement held under one landlord, and all in the same parish. The ground on which I opposed it was the bad policy of increasing the difficulties of paupers acquiring settlements. (*Vide ante*, p. 159.) The Bill was thrown out.

On the same day, in the House of Lords, three of the Bills which I had carried through the House *Criminal Law.* of Commons (those relating to stealing in dwelling houses and on vessels in navigable rivers, and privately stealing in shops) were thrown out on the opposition of Lord Ellenborough, the Lord Chancellor, Lord Redesdale, and Lord Liverpool. They were supported by the Lords Holland, Lauderdale, Erskine, and Lansdowne.* The numbers were, for the Bills 10, against them 27. The two

* The Duke of Gloucester, the Duke of Somerset, Lord Cowper, Lord King, Lord Stanhope, and —* voted for them. Lord Grenville, in the debate on the Revenue Penal Law Bill, a short time back, declared his entire approbation of my Bills, and expressed his regret that he should not be in town on the second reading.

¹ See *suprà*, p. 186, note.—ED.

* Left blank in the original.—ED.

other Bills relating to stealing from bleaching-grounds are to be allowed to pass.¹

25th, Sat. In the Gazette of this night is announced the re-appointment by the Prince Regent of the *Duke of York* to be Commander-in-Chief.

June 2nd. Whitsunday. I pass these short holidays in town.

5th, Wed. The Committee of the House of Lords having made their report on the subject of adopting measures for the more expeditious hearing and decision of causes in their House, in which they had, amongst other things, *Delays in the Court of Chancery.* solved, "That it was expedient, in order to secure at the same time a sufficient attendance upon the House of Lords by the Lord Chancellor, and sufficient means for carrying on the business in the Court of Chancery, that an additional Judge in the Court of Chancery should be appointed," Mr. Taylor brought on again to-day his motion for appointing a committee to inquire into the causes which had retarded the decision of suits in the Court of Chancery, the debate on which had been adjourned. I supported the motion on the grounds on which I before supported it.² On a division the numbers were equal, 36 for, and 36* against it. The Speaker decided for the motion, and a committee has accordingly been appointed. I am a member of it.

6th, Th. Lord Milton moved in the House of Commons a resolution which was in these words:— "That, *The Duke of York's restoration to Office.* upon a deliberate consideration of the recent circumstances under which his Royal Highness the Duke of York retired from the command of the army in March, 1809, it appears to this House that it has been highly improper and indecorous in the advisers of the Prince Regent to have recommended to his Royal Highness the re-appointment of the Duke of

* Perceval and all his adherents voted against the Committee; but yet I know that the Chancellor, in private, complained bitterly of Perceval for not making a greater exertion to resist this proceeding.

¹ They are the 51 Geo. III. c. 39 and 41.—ED.

² See *suprà*, p. 199.—ED.

York to the office of Commander-in-Chief." I voted for the motion. The minority was a very small one, only 47 against 296. Several persons, whose votes I should have thought (judging from their past conduct) could not possibly have been influenced by any apprehension of displeasing the Prince, very prudently absented themselves. Some of my friends were very anxious that I should do the same. I had no hesitation, however, in determining to attend and to vote. In the course of the debate I was several times tempted to say a few words. It is, however, perhaps as well that I did not. If I had spoken, I should have said that if, on a review of my conduct when the inquiry on the Duke of York took place, I could have discovered that I had been wrong, I should gladly have seized this opportunity of acknowledging my error; but that, on reconsideration of the opinion I then delivered, I could not find any reason to alter it; and that what had passed since the inquiry had closed had not, in my opinion, at all altered the case favourably for his Royal Highness. That, on the contrary, what had since passed had rather confirmed than weakened the opinion I had before entertained: because, although an open rupture had taken place between the accuser and the principal witness in support of the accusation, and each had appealed to the public, and had endeavoured to represent the other in the most odious point of view, yet, under circumstances so favourable for the party accused, though much had appeared highly discreditable to the witness and the accuser, not one single fact had transpired which had altered the state of the case when the House had to decide upon it, or which had cleared up any part of the mystery which hung over some of the transactions.

7th, *Fri.* Mr. Bootle having given up, for the present session, the Bill which he had brought in for the *Parish Apprentices*, and having to-day *prentices*. moved for some returns of the number of apprentices bound out by the parishes in London,* I took this opportunity of

* Mr. East has suggested to me the propriety of repealing the Act which enables parish officers to compel persons to take parish apprentices.

expressing my concern that the Bill was given up, and of stating my view of the subject pretty much at large. Some conversation ensued; in the course of which Sir Robert Peel, a cotton manufacturer, expressed his disapprobation of the Bill. He said that it would be highly unjust to prevent a man from taking as many apprentices as he thought proper: that the children so bound from London were boys educated to picking pockets; and that it was the happiest thing possible for them to be removed from their former connexions. Mr. Wortley, who spoke on the same side, insisted that, although in the higher ranks of society it was true that to cultivate the affections of children for their family was the source of every virtue, yet that it was not so among the lower orders, and that it was a benefit to the children to take them away from their miserable and depraved parents. He said, too, that it would be highly injurious to the public to put a stop to the binding so many apprentices to the cotton manufacturers, as it must necessarily raise the price of labour and enhance the price of cotton manufactured goods. These are topics not to be forgotten when the subject comes again before Parliament. If Mr. Bootle does not bring in the Bill in the next session, I think that I shall.*

12th, *Wed.* I moved for returns of all persons tried *Returns of Convicts.* for different offences in England, Ireland, and Scotland, which were ordered.

18th, *Tu.* The Committee to inquire into the causes of *Delays in the Court of Chancery.* delays in the Court of Chancery have made a Report. I attended the Committee a good deal, and suggested some things which are in the Report. We have only been able to state what arrear of business there is in Chancery and in the Appellate Court of the House of Lords, and what the amount of the Chancellor's emoluments are, and from what sources they are derived. With respect to other objects which we conceived we ought to have accomplished

* Mr. Bootle (Wilbraham) did not bring in this Bill till 1815. It then passed the Commons without any opposition, but it was given up in the Lords upon some very absurd objections made to it.

if the state of the session had afforded us time,—such as the inquiry into the causes of the delays, whether the evil required a temporary or a permanent remedy, and our opinion upon such remedies as had been or might be suggested,—we state that we have required information to enable us to pursue them, but have not yet been able to procure it. We have stated this in order to make it difficult to refuse the appointment of a committee for the same purposes in a future session. The only opinion given in our Report was suggested by myself, and relates to a part of the Chancellor's fees. The passage as I suggested it was this:—“It appears that a considerable part of the emoluments of the office of Lord Chancellor¹ is derived from fees, nominally paid to his Secretary of Bankrupts, but who accounts for such fees to the Lord Chancellor himself, and is allowed by his Lordship, in lieu of them, a certain fixed salary. Your Committee cannot see this without remarking that it appears to them highly inexpedient that the emoluments of any judicial officer should be constituted in part of fees ostensibly payable not to himself, but to a person in a subordinate situation. As any complaint of improper fees taken by an inferior and ministerial officer must be made to his superior, the judge of the Court, it appears to be highly objectionable that such fees should be received for the use of the judge himself; who must, in that case, have to sit in judgment on supposed or alleged abuses, from which, if they existed, he would himself derive a benefit. If it should be thought that any alteration should be made in this respect, your Committee suggest the propriety of abolishing these fees altogether; which, though they are but of small amount in each commission, can be considered in no other light than as a tax upon distress and insolvency.” The Committee adopted this suggestion of mine, but not exactly in these words. We speak only of the mischief which would result from complaints to be made to a Chancellor, a judge in his own

¹ No part of the income of the Lord Chancellor is now derived from this source. The amount and application of the fees paid in bankruptcy were regulated by 1 and 2 Will. IV. c. 56.—ED.

cause. The fact is, that such a complaint was actually made to the present Lord Chancellor some years ago by a solicitor of the name of Lowe.* The Chancellor desired the Master of the Rolls to assist him in hearing it. I was counsel for Lowe; the petition was heard; it stood over for judgment, but no judgment was ever given; and the fees were taken by the Lord Chancellor as before. These fees have, by the late increase of commissions of bankruptcy, become very considerable. In the last year they amounted to no less than 4900*l.* The fact of Lowe having made his complaint appeared to the Committee on the evidence of the Secretary of Bankrupts; but it was thought proper, and indeed suggested by myself, to strike that statement out of his deposition before we reported the evidence; because the passage in the body of the Report, coupled with the fact, might be thought to establish a very serious charge against the Chancellor, which, if to be made at all, ought to be made upon a fuller investigation of all the facts than we had, at the present advanced period of the session, an opportunity of making. It was expected, indeed, that Parliament would be prorogued immediately and that not a day was to be lost to enable us to make our Report.

The project of making a third judge to sit in the Court

* This petition came on to be heard in ____¹; it stated Lord Hardwicke's order of the 28th of November, 1743, and complained that the table of fees was not stuck up in the office; that the Deputy-Secretary, upon issuing a commission, claimed a fee of 5*s.*, not warranted by Lord Hardwicke's order; that the Secretary of Bankrupts claimed a fee for copying, under the denomination of stationery (but in the latter part of the petition this fee was stated to have been discontinued); that the charge for office copies of affidavits was made by the folio, and not by the sides, as directed by Lord Hardwicke's order, and was stamped with a less stamp than it ought to be, according to the folios charged; that two guineas were charged for a docket, but that the petitioner was unable to state how the Secretary could make out his claim to more than two shillings and sixpence; that a charge of one guinea for preparing the commission was charged, and was an imposition; but the petition states that charge, at least as to the petitioner, to have been discontinued.

¹ Left blank in the original.—ED.

of Chancery has, for the present session at least, been abandoned: and in my opinion this is a great good which has resulted from appointing this Committee. I prepared some observations on this subject to have been submitted to the Committee, if we had proceeded so far as to have given an opinion on this scheme. It may be of use to me to recollect them hereafter, and I therefore insert them here:—

“ It is stated in the Report of the Select Committee of the Lords that the view with which it is suggested that an additional judge in the Court of Chancery should be appointed, is, ‘that there may be secured at the same time a sufficient attendance upon the House of Lords by the Lord Chancellor, and sufficient means for carrying on the business in the Court of Chancery.’ To accomplish this object, therefore, it must be made the province of such additional judge to do a great part of the business of the Court of Chancery which is now done by the Lord Chancellor. That business may be classed under three heads: 1st, The hearing causes, whether coming before the Lord Chancellor as original causes, or for further directions on pleas and demurrers, or on exceptions to the Reports of Masters. 2nd, The interlocutory proceedings of motions and petitions. And 3rd, The review of the decrees of the Master of the Rolls upon appeal. The last of these has hitherto occupied but a very inconsiderable portion of the time of the Lord Chancellor. It appears by the Report of the Lords’ Committee that, in the ten last years of the Chancellorship of Lord Hardwicke, he had decided only fifty-eight causes on rehearings and appeals, being an average of less than six a year, including rehearings of decrees originally pronounced by himself. The number is greater in the last ten years; but even in that period the average number does not exceed nine a year.

“ The hearing of motions and petitions in causes occupies but a small portion of the Lord Chancellor’s time, compared with that which he gives to the decision of causes. The appointment of an additional judge, therefore, would not enable the Lord Chancellor to attend much more assiduously in the House of Lords than he does at

present, unless such judge were to relieve the Lord Chancellor from all the duties which fall under the first of the heads before enumerated ; perhaps from those which fall under the two first of these heads, but certainly from those which fall under the first of them. This, however, would be an alteration in the constitution of the Court which appears to be open to the strongest objections. It would be, in effect, to separate from the office of Lord Chancellor those functions which have been hitherto considered as the most essential to it, and as constituting its nature and character ; and to leave the person who may hold the Great Seal in name still a Chancellor, but in truth a magistrate of a very different description. He would have a variety of great and important duties to discharge, but the least of them would be to transact the business of the Court of Chancery ; and, in the mean time, the ancient office of Lord Chancellor would, in effect, be divided between two Masters of the Rolls (or whatever name they are to be called by), neither of them subject to the control of the other, but each in his own hall exercising an original and independent jurisdiction.

“ This seems the more objectionable on account of the nature of that peculiar system of jurisprudence which is known in this country by the name of Equity. The rules of this system are not laid down in any statutes, but are to be collected solely from decisions, very few of which took place more than a century and a half ago ; from decisions, too, of judges, of whom some were in a great degree the authors of the system they were administering, and who were applying to the particular cases before them the rules which they had themselves established.

“ It appears to be most essential to the due administration of such a system of jurisprudence that the person administering it should be intimately acquainted with the whole of the system, and should have the general rules and doctrines of the Court constantly present to his mind, and the memory of them kept alive by habitual and almost daily use. It is very obvious that if, of the three judges who are to preside in the same Court of Equity, two are to have the law of the Court in all its branches familiar to

them, and kept constantly in their view by a regular and uninterrupted attendance in Court; and the third is only, as an occasional visiter, to refresh his memory by looking back into the Records of the Court on particular heads, just so as to enable him to decide nine or ten causes, or twice that number, which may happen to be brought before him for decision on appeals in the course of a year; this effect must in process of time be produced. The appeal will be from a judge, a perfect master of the law of the Court, to one who has only a defective recollection of it; from one who has never absented himself from that which may be considered as his native Court, to one who has migrated into another place, and returns as a kind of foreigner. Or, if that effect be not really produced, there will always be a prevailing idea that it has been produced. The suitor who, having had a decree in his favour, sees it reversed on appeal, will be apt to observe that the judge of the most experience must be the most likely to have understood the case, and to have decided it properly; and the disappointed appellant, whose appeal has been fruitless, will be well disposed to remark that it is not surprising that the appellate judge should have had so much deference for his superior in experience and ability, though his inferior in rank, as to have submitted to him his own opinion, and to have affirmed his decree, from deference, not to the reasons of the judgment, but to the character and authority of the judge.

“ In a system of jurisprudence that is founded on no positive rules laid down by the Legislature which may at all times be referred to, it must necessarily happen, with respect to some of its doctrines, that they are gradually and insensibly departed from by successive decisions. It may be sufficient to refer to such matters as fraud and breach of trust, and the acts which are considered as part performances of parole agreements, to illusory appointments, and the circumstances which convert executors into trustees of a residue undisposed of, to bring to the recollection of those who are well acquainted with the history of the Court examples of what is here alluded to. In such a system, decisions may be considerably influenced

by the peculiar notions and particular habits of thinking of each judge; and when two original judges, differently constituted, as they must necessarily be, by nature and by education, are sitting at the same time, it can hardly be avoided that, with respect to the same rules, there should sometimes be deviations in quite opposite directions, and that there should come to be gradually established two different laws administered at the same time, on the same subject, and by the same Court.

“Another very great evil attendant on this project is its necessary tendency to add greatly to the expense of suits in Equity, and permanently to increase the business of the Court and to protract the final decision of causes. It has already been observed that appeals from the decrees of the Master of the Rolls to the Lord Chancellor were till lately very few in number, and that in Lord Hardwicke’s time they were still fewer. A plaintiff has a right to set down his cause wherever he pleases; and till of late years it was never usual to set down causes of much difficulty or importance before the Master of the Rolls. Such causes were, by reason of the probability that the party against whom the decree was pronounced would appeal, and to avoid the expense of a second hearing, generally set down in the first instance before the Lord Chancellor. From his decree there only lies an immediate appeal to the Lords; but, from a decree at the Rolls, the cause can very rarely be carried into the House of Lords till it has first gone by appeal to the Lord Chancellor. Of late, however, this has been considerably altered; the alteration occasioned in a great degree by the difficulty there is to obtain any decision from the Lord Chancellor. Not only has the number of causes set down before the present Master of the Rolls very greatly increased, but they are for the most part causes very different in their nature, and of much greater difficulty and importance, than those which used to be set down before him. If the plan of appointing an additional judge should be adopted, it will not be in the power of the parties to prevent those intermediate appeals; and no doubt can be entertained that such appeals will become much more

numerous as long as a high opinion shall be entertained of the person who is appointed to the office of Lord Chancellor. If ever, indeed, a time should come when the learning and talents of the persons appointed to the two subordinate judicial offices in Chancery, or, indeed, if either of them, shall be more highly estimated by the public than those of the person who is selected for the high office of Lord Chancellor, and that this opinion should even be entertained and acknowledged by the Lord Chancellor himself, so that he shall come to sit in his Court of Appeal only to acknowledge the superiority of the judge who is appealed from; whenever this happens, there will probably be few appeals, and the expense and delay of such proceedings will be avoided; but the evil will be of another character, and of a much greater magnitude.

“The alteration proposed may be described in a few words, but it should seem with great accuracy, to be a division of the Chancery into two courts, and the creation of an intermediate court of appeal between the Chancery and the House of Lords.

“In the preceding observations nothing is said of the expense which will attend the creation of this new office, or of the increase of the patronage to be exercised by the Ministers of the Crown in the profession of the law, although these are considerations which ought not to be disregarded.”

19th, *Wed.* The Regent gave a grand festival, probably the most splendid and the most expensive that *The Regent's Festival.* ever was given in this country. About 3000 persons were entertained at supper. I was present; the Regent spoke to me in his usual way, and my recent vote against the Duke of York does not seem to be at all resented. A reason given for this festival was, that it might give employment to the manufacturers; and it was desired that the dresses of all the guests should be of British manufacture. It does not seem likely, however, to gain the Regent much popularity. The great expense of this entertainment has been contrasted with the misery of the starving weavers of Lancashire and Glasgow. Among the higher orders great offence has been given by the omis-

sion of invitations, either through neglect or design. The French Prince who calls himself Louis XVIII., and the other Princes of the House of Bourbon, were among the company, and were received with great distinction. The policy of this is not easy to be discovered.

24th, *Mon.* A Bill for the relief of insolvent debtors *Insolvent Debtors' Bill.* having passed the Lords, and having been read twice in the Commons, I observed, on the House going into a Committee upon it, "that such Bills were, in my opinion, in the highest degree objectionable; that it was impossible, on any principles of law or justice, to support an *ex post facto* law, which took away, merely because such was the pleasure of the legislature, the stipulated effect of contracts entered into under the sanction of law; that nothing could palliate such measures but the intolerable mischiefs of the law as it at present stood; that a stronger declaration of the defect of our law on the subject of debtor and creditor, and of the imperative necessity of a change in it, could not be made than these insolvent Bills, which now passed, as it were, periodically at the end of every two or three years; the legislature thus proclaiming its own reproach and disgrace in leaving the law in such a state."

July 19th, Fri. The session of Parliament has been protracted much beyond the period that was expected and originally intended by Ministers: first, in consequence of the determination of the Lords to decide upon the claim to the Earldom of Berkeley; and since, by a Bill which Lord Stanhope brought into the House of Lords to prevent the sale of bank-notes for less than their nominal value.

Lord Stanhope's Bill to prevent the sale of bank-notes for less than their nominal value. The Ministers at first expressed their disapprobation of this foolish and mischievous Bill; but, it having appeared in the course of the debates upon it that Lord King had given a notice to his tenants to pay their rent in gold, and that conduct having been defended by Lord Grenville and Lord Lauderdale, the Ministers determined to adopt the Bill; and they have prolonged the session for the mere purpose of carrying it through. On the second reading of the Bill in the Lords, the Ministers had not determined

what course they should take ; but after consultations between Perceval, Lord Liverpool, and others of the Ministers, while the debate was going on, they resolved to support it ; and in the committee, they added a clause to take away from every person having a right to distrain for rent or any other debt his power of distress if the amount of his rent were tendered to him in bank-notes. The third reading of this Bill in the House of Commons was on this day. I had voted against it on the first reading, and on going into a committee ; and on this day I both spoke and voted against it. The minorities were all very small.¹ All the Regent's personal friends made a point, by his direction, of supporting the Bill in every stage of it, such as Lord Yarmouth, Tyrwhitt, and M'Mahon. Sheridan, too, attended and spoke in support of it.

24th, *Wed.* Parliament prorogued.

Aug. 23rd, Fri. The Chancellor ended his sittings. In the last fortnight he has done more business *The Lord Chancellor.* than in all the rest of the year. He has heard nearly three hundred petitions in Bankruptcy, and has decided as well as heard them. In the last week he sat every morning from nine to four, and in the evening from half after five till ten ; and he has not only done the business expeditiously, but with very great ability. It should seem as if his object had been to exhibit the most striking contrast imaginable to his usual mode of administering justice.

25th, *Sun.* Left town. Slept at Winchester, and the next day,

26th, passed over to the Isle of Wight, to East Cowes.

30th, *Fri.* Set out for Durham.

Sept. 10th, Tu. Returned to Cowes, in the Isle of Wight.

The King, whose insanity seems now to admit scarcely of any hope of recovery, was thought, a few weeks ago, to be in a state of health so alarming as to forebode a speedy termination of his sufferings. *Prospect of an approaching election.*

¹ On this occasion 95 voted in favour of the Bill, 20 against it.
—Ed.

As his death must be soon followed by calling a new Parliament, a great deal of canvassing for seats has been going on throughout the kingdom. It has been intimated to me that it was proposed, in several places where the electors are very numerous, to put me up as a candidate; particularly at Liverpool, at Bristol, and in the county of Middlesex. Liverpool, however, affords the prospect of a violent contest, carried on with all the tumult which has so often disgraced that place at times of elections: I have, therefore, on the first intimation of the matter to me, expressed my determination not to consent to become the cause or the subject of any such contest. With respect, however, to Bristol, or to Middlesex, the case might be very different; and my sentiments respecting them are fully expressed in the correspondence which follows. The first letter was written to me by Lord Grenville. I received it just as I was leaving town, and did not answer it till I got to the Isle of Wight.

“ My dear Sir,

“ Dropmore, Aug. 23, 1811.

Lord Grenville's letter respecting Bristol. “ It was mentioned to me a short time since, that there was a disposition among the same persons who had supported my election as Steward of Bristol to look to you as a proper person to represent that city in a new Parliament. My answer could contain little more than expressions of that sincere regard and esteem which I feel towards you, and of the satisfaction I should derive from any public testimony of those feelings towards you from so respectable and considerable a body as the electors of Bristol. A stranger myself to that place, I have very little pretensions to any interest there; and even the little I have I felt I could not honourably pledge, until I had had the opportunity of communicating on the subject with the Duke of Norfolk, in concert with whom I had acted in all that regarded Bristol. I have this day seen him; and on the result of our conversation I think myself authorised to say on his part, as I most readily do on my own, that, if this object should be one in which you are willing to engage, you have every right to command whatever feeble

assistance can be derived from the expression of my best wishes for your success, in every quarter in which they can by possibility be useful to it. If, when the business of your Court will admit of it, you can find a leisure day or two to give me the pleasure of your company here, I could in conversation better than by letter explain to you the little I know about Bristol and its interests.

“ I am, dear Sir, with the most sincere regard, most truly yours, &c.

“ GRENVILLE.”

To this letter I returned the following answer:—

“ My dear Lord,

“ Cowes, Aug. 27, 1811.

“ I cannot too much thank your Lordship for your kind letter. Such a testimony of your good opinion I feel to be in the highest degree honourable, as it certainly is most flattering to me. It is proper, however, that I should fully explain to your Lordship what my views and sentiments respecting Bristol are. It had never entered my mind to offer myself as a candidate for it; but it has lately been suggested to me that I might probably have a proposal made to me on behalf of the electors to represent them. In truth, however, to this moment, no direct communication with me on the subject has taken place. However much I might be flattered with the honour of representing such a body of constituents, yet nothing can be less suited to my inclination than to engage in a contest to obtain it. I certainly would not incur the expense of it; and I would still less expose myself to the trouble and vexation which must attend it. I am told, however, by the only gentleman who has ever talked with me on the subject, that the proposal would never be made to me, unless it could first be ascertained that I could come in without any contest, and consequently without any expense. The only difficulty that had occurred to that gentleman as likely to occasion me to hesitate at accepting the offer was, that I might find the business which a Member for Bristol has necessarily to do for his constituents incompatible with my other numerous

occupations. Such an addition, however, to my labours I would cheerfully submit to for what I own would be so highly gratifying to me as to receive so strong and so honourable a proof of approbation of my public conduct as that of being returned to Parliament by a numerous body of electors, to every one of whom I am personally a total stranger. That I shall receive such an honour is that however of which I do not entertain any sanguine expectations. It would give me very great pleasure to be able to avail myself of your Lordship's obliging invitation, but I must leave this place in a few days for Durham, and I am afraid that, after that, my other engagements will take me very far from Dropmore. I write by this day's post to the Duke of Norfolk, to thank him for the interest which your Lordship says he is so kind as to take for me."

The idea of electing me for Middlesex, it seems, had been mentioned in a club, which is called the Middlesex Freeholders' Club. Some of the members related this to my friend Basil Montagu, who told them he thought it very probable that I might have formed some engagements which would make it impossible for me to accept such an offer if it were made to me; and he immediately afterwards wrote to me on the subject.

On the 10th of September I sent him an answer from Cowes, where I then was, in these words:—

“ My answer to your question is, that I am under no engagement to offer myself as a candidate to sit in Parliament for any place. I have not, indeed, *Letters respect. ing Middlesex* election. had any direct application whatever made to me on the subject; and all that has passed with respect to the place you mention is, that it has been intimated to me that such an application would very probably be made to me. With respect to the offer which you say I possibly may receive from a considerable number of the freeholders of Middlesex, I have no difficulty in explaining to you what I feel on that subject. I should think it the height of folly and presumption in me to offer myself as a candidate to represent the county. I feel that I have no kind of pretensions to it; but if the freeholders should be so

well satisfied with my past conduct in Parliament as to wish that I should represent them, and if, unsolicited on my part, they should be disposed to elect me, I certainly should consider it as the highest honour that could be conferred on me. I never have made, and I never will make, popular applause the object of my pursuit; but yet I have always felt that, next to the satisfaction which arises from the consciousness of having faithfully discharged one's duty, the best reward, in this life of public services, is the approbation of the public. With all this, however, I should feel great alarm at any proposal of the kind you mention being hastily made by too warm and sanguine friends. It would mortify me, I own, to a very great degree, to be put in nomination as a candidate and not to be returned; and yet I would not, in any event, put myself to any expense beyond that of the hustings, which every candidate must bear, nor would I solicit a single vote. I cannot think that, under such circumstances, I should have the smallest chance of success."

I meant this letter to be shown to the persons who had applied to Montagu; and thinking I had not been sufficiently explicit, three days afterwards I wrote to him again.*

" My dear Sir,

" Cowes, Sept. 13, 1811.

" I answered your letter so quickly after I had read it, that I am afraid I did not explain myself so clearly as the importance of the occasion required, and I therefore trouble you with a second letter. Proud as I should be of so flattering a testimony in favour of my conduct in Parliament as that of being elected to represent the county of Middlesex, yet there are many circumstances which, the more I reflect upon them, the more they convince me that it is hardly possible that I ever should obtain it. The popular representative, and much more the popular candidate, for a great county, is expected, I believe, to attend public dinners, and to make

* I afterwards understood from Montagu that he did not show either of my letters to any one.

speeches at taverns, and give patriotic toasts. For such occupations I have neither time, capacity, nor inclination; and if, without these, the honour of representing Middlesex cannot be gained, I certainly never shall gain it. I do not presume to censure those who adopt such a line of conduct, but it would not suit me; and I am convinced that such a complete change of conduct and of character would entirely take away the chance, whatever it may be, which I may now have of doing any public good. Upon reading your letter again, I think I observe that this has struck you as forcibly as it does me. I have no expectation of ever being in a judicial station; but without the expectation of it, I certainly do not pretend that there are no circumstances in which I might not think it greatly to be desired, and I never will act a part unbecoming the dignity of a station which, though I do not aspire to it, and though there is no probability, yet there is a possibility that I may at some time fill. It would be to entertain a very false and a ridiculously vain opinion of myself to suppose that I stand so high in public estimation that I have any the remotest chance of being returned to Parliament without some exertion on my part; and I certainly have formed no such opinion: and yet, unless that were the case, I do not see how it would be possible for me to represent the county. Pray excuse the trouble of this second letter; but I should be extremely sorry if, by not being sufficiently explicit, I should have been the cause, to those who think well of me, of inconvenience which they never would have put themselves to if they had known my real sentiments."

About a fortnight after this I received a letter from Mr. Cartwright, who is generally called Major Cartwright, enclosing certain resolutions, as follows:—

" Dear Sir, " James Street, Buckingham Gate, Oct. 1, 1811.

Mr. Cartwright's letter. " I have thought it due to you to apprise you of a deputation which is appointed to wait on you, and the object of it. By the enclosed you will see that a beginning has been made towards a Middlesex election, propitious to public free-

dom. The Middlesex Freeholders' Club have thought it due to the Constitution, as well as to their own consistency, to make such an explicit declaration of their opinion touching parliamentary reform as comes within their conception of the people's rights; and they of course are anxious that the representatives of their county should be chosen from among men holding, on a matter so infinitely important, the same opinions with themselves. It made likewise a part of their consideration, that their declarations may have a good effect in the way of example to other electors, besides promoting discussion, which is ever favourable to political liberty. To Sir Samuel Romilly, more I believe than to any other man of the present day, the parties would gladly have dispensed with asking a specific declaration of opinion, as a ground for entering into a positive resolution of proposing him. But, considering that, in times like the present, to propose to their country the election of a particular man involves in it a serious responsibility, they ought to be able to state that they have not so done on mere presumption, but on full knowledge of his holding correct opinions on points essential to the constitution. And this line of conduct seems the more advisable when the declaration is to manifest how the party making it is to be classed; that is, whether as a real and rational reformist, or as one of those who style themselves moderate reformists; for under the respective leaders of these classes the mass of people seem ripe for arranging themselves. Nothing having been settled as to the mode of making the wished-for declaration, my own idea of the matter is, that the most eligible way would be, not to give an individual signature, but one in common among several; and I shall make it my business to collect some, of persons every way respectable, in readiness for such a purpose. In the desperate situation in which public liberty stands, my own judgment tells me that, by making an honest and manly appeal to public reason and public spirit, we hazard nothing. It cannot make things worse. It may bring salvation. The power of truth, although proverbial, does not prevent its lying sometimes for ages

dormant, while at critical periods, and issuing from the lips of men revered for their virtue and wisdom, its influence is rapid and resistless. We seem to be in a political crisis favourable to such an influence. After a thirty years' discussion on representation, sound argument must ever be at hand for putting down shallow sophistry or unprincipled cavil; and, as the public is not likely to prefer a shadow to a substance, or ignorance to knowledge, I am perfectly at ease on the part likely to be taken by the mass of the nation between the classes of reformists I have already named. Although one of the deputation appointed to wait on you, I may very possibly be out of the way at the proper time, as I am now only detained in town by a life-boat experiment, and expect in a week or less to go into the North for two months or more.

“ With the greatest respect and esteem, I remain, dear Sir, truly yours,

“ J. CARTWRIGHT.

“ To Sir S. Romilly.”

*Resolutions
of the Middle-
sex Freehold-
ers' Club.*

At a meeting of the Middlesex Freeholders' Club, held at the Crown and Anchor Tavern, in the Strand, on Tuesday, September 24th, 1811, J. Cartwright in the Chair, Resolved, “That it be earnestly recommended to the freeholders of Middlesex, and to electors throughout the kingdom, not only to follow the example of Westminster in sending to Parliament a representative free of personal expense, but never at any future election to vote for any person to serve in Parliament who shall not first have subscribed a declaration as follows:—‘I declare it to be my opinion that representation ought to have at least as wide an extent as taxation in support of the poor, the church, and the state; that such representation, as a common right, ought to be fairly distributed throughout the community; and that Parliaments ought to be brought back to a constitutional duration, that is, not exceeding one year.’” Resolved, “That, provided the foregoing resolution shall express the opinion of Sir Samuel Romilly, and he shall signify the same by his signature, that gentleman

shall at the next election be put in nomination for Middlesex, when a subscription shall be immediately opened for defraying all legal and unavoidable expense, that his election may be secured." Resolved, "That our chairman, together with Mr. Brooks and Mr. Adams, be a deputation to wait on Sir Samuel Romilly, with the foregoing resolutions."

"N. B. The last resolution written from memory."

My answer was as follows:—

"TO JOHN CARTWRIGHT, ESQ.

"Dear Sir,

"Cowes, Oct. 3.

"I am very much obliged to you for apprizing me of the resolutions come to at the meeting of the Middlesex Freeholders' Club, held on the 24th of last month, and of the application intended in consequence of them to be made to me. Whenever that application is made I shall think myself obliged to decline the honour intended me; not, however, that I have any wish to retire from Parliament, or that I do not justly estimate the value of public opinion on the conduct of public men. To be returned by a numerous body of independent electors to represent them in Parliament, without any solicitation on my part, and without using those arts which are often practised of making high professions and specious promises, and on no other ground than that I had by my past conduct appeared faithfully to discharge the duty which I owe to my country, would have been an honour of which I should have been prouder than of any that could be conferred upon me from any other quarter. But to put myself forward, though upon the invitation of a most respectable body of freeholders, as a candidate, and to subscribe an article of political faith as a condition upon which a subscription was to be set on foot to defray the expense of a contest in my favour, is that which, though I shall not presume to censure it in others, would neither suit my inclination nor agree with those rules by which I have determined always to govern my conduct. I am very shortly about to leave this place,

and shall be afterwards in Glamorganshire, and then in Herefordshire; but my stay in those places is so unfixed that I hardly know with certainty where I shall be on any particular day till the end of the month, when I shall return to London. I take the liberty of mentioning this to you, because I am very anxious to prevent the gentlemen who have done me the honour to undertake to communicate the resolutions to me having the trouble of making a useless journey; and you are perfectly at liberty, if you think proper, to communicate this letter to them."

A few days afterwards I received another and a very long letter from Mr. Cartwright, in which he seemed anxious that I should be prevailed on to give my opinion on the proposition contained in the resolution; and, if I approved it, that I should sign it; and that, after I had done so, a proposal should be made to me to stand for the county. The letter, however, was not so framed as to require an answer. But on the 2d of November he wrote to me again, and suggested some alterations which had been proposed in the resolution, and used many arguments to induce me to sign it. My answer to him was in these words:—

" Dear Sir,

" Lincoln's Inn, Nov. 6, 1811.

" Your letter of the 5th of last month was received by me in the Isle of Wight, and I yesterday was honoured with yours of the 2d instant. I am very much obliged by the interest which you take on my behalf. I cannot say, however, after having very maturely considered your arguments, that I am convinced by them. If I were offering myself as a candidate to represent the county I could well understand that the freeholders might say, 'Before we give you our votes we desire to have an explicit declaration of your opinion on the subject of a reform in Parliament, and, to remove all misunderstanding, we desire to have it in writing.' But I am no candidate; I have not asked, and I will not ask, any man for his vote. If I were elected to represent the county, which I have never supposed in the least probable, the

value of that honour, which I should consider as the highest that I could have received, would in my estimation consist principally in its having been conferred upon me without any solicitation, profession, or interference on my part. You will not, I am sure, suppose that I have the vanity to imagine that I have deserved any such honour; I know very well that I have not, and I am well contented to remain without it."

A little time after this I received another letter from Mr. Cartwright, telling me that a case would be laid before me which he wished me to answer; and accordingly, in a few days, a case, with a fee of three guineas, was left at my chambers. The case was in these words:—

"Whereas A., B., and C. are anxious that, in matters touching the election of representatives to serve in Parliament, their own conduct should be in strict conformity with their public duty, and rightly directed to the advancement of the public service: And whereas they believe that the legislature hath not authority to violate the constitution, or to invade the rights and liberties of the nation: And whereas they also assent to that maxim which says that Acts of Parliament which should be contrary to the constitution, and subversive of those rights and liberties, would not be statutes, but corruptions: Wherefore, for their satisfaction, in respect of the proper constitutional securities of public liberty, and in aid of their judgment on the important point of their choosing representatives, they desire the opinion of Sir Samuel Romilly in answer to each of the three following queries:—

"1st. Doth not constitutional law require that Parliamentary representation should have at least as wide an extent as direct taxation, in support of the poor, the church, and the state?

"2dly. Doth not constitutional law require that such representation, as a common right, be fairly distributed throughout the community?

"3dly. Is it not required by the constitution, and by

the rights and liberties of the nation, that the duration of Parliament should not exceed one year?

“Sir Samuel Romilly is requested to leave his answer with his clerk, sealed, and to be delivered to either of the persons who left the case.”

This case I sealed up, and left out for the persons who should call for it, with this note:—

“Sir Samuel Romilly cannot consider the enclosed case as being laid before him, in the regular course of his profession, for his opinion on any question of law, and therefore he must decline answering it. He has directed his clerk to return the fee which was left with it.

“Lincoln's Inn, Nov. 18, 1811.”

Thus, I presume, ends the scheme which had been formed of putting me up as a candidate for the county. I have placed all the preceding letters together, and now return to my journal.

I stayed in the Isle of Wight till the 12th of October, and then set out for Herefordshire, meaning to pass through Glamorganshire, that I might look at an estate which I have contracted to purchase.

29th. *Tu.* Arrived in town.

30th. *Wed.* The Lord Chancellor sat at Lincoln's-Inn Hall, and held the first seal.

Nov. 28th. The Lord Chancellor has, in the course of this Michaelmas Term, been prevented from attending the Court for above a week by ill health. His place was supplied as usual by the Master of the Rolls, who heard so many causes, and made such progress in the Chancellor's paper, that, after striking out many causes, because the solicitors had not delivered briefs in them, he discontinued his sitting, in order to give the parties in the remaining causes time to prepare themselves to have their causes heard. If, among the expedients which have been thought of for clearing the present arrear of business, one should suggest that of the Chancellor's staying away entirely from his Court, it would be considered as a jest. The truth,

however, is, that this would be so effectual an expedient, that, if the Lord Chancellor were only confined to his room by illness for two successive terms, there is no doubt that all the arrear of business, except the Bankrupt and Lunatic Petitions, and the Appeals (which the Master of the Rolls cannot hear), would be entirely got rid of. Application was made to-day to the Lord Chancellor to restore to the paper two causes which had been struck out, when the Master of the Rolls sat for him, on the ground that they stood so low down that the solicitors had no reason to suppose that they would be called on, and had omitted to deliver their briefs to counsel. The Chancellor refused the application ; and availed himself of this, as he has of several former opportunities, to complain from the Bench that great injustice had been done him, in representing him as the cause of the delays which existed in the Court ; when it was manifest that the blame lay with the solicitors alone, who, though they charged their clients for their attendance every day that a cause was in the paper, neglected, it seems, to prepare and deliver their briefs. It would not quite follow of necessity, if the solicitors were the cause of delay in this instance, that the Chancellor might not be the cause of it in a great many others. The truth, however, is, that in this very instance much more blame is imputable to the Chancellor than to the solicitors. It is because the progress which he is accustomed to make is so very slow, that a solicitor never thinks of delivering briefs in causes which, in the beginning of a term, stand, as these did, thirty or forty down in the cause book ; and, indeed, that, with a due regard to economy on behalf of his client, he ought not to deliver them ; since, by doing so, he will run the risk of having to pay (as has often happened) refreshing fees to counsel for seven or eight terms before the cause comes on to be heard.

The gentlemen who have thought of proposing me as a candidate at Bristol have caused the following *Bristol election.* letter to be written to me :—

“ Sir,

“ Mr. Baillie, who for the last three Parliaments

has been returned by the Whig interest of this city, having signified to his friends that ill health will prevent him again offering himself for our representation, several gentlemen, who are members of the Independent and Constitutional Club established in this city for the avowed purpose of preserving the freedom of election, and who have viewed with great satisfaction the uniform integrity and independence of your political conduct, are desirous of putting you in nomination in the club for that important trust, provided they have your sanction so to do. At the same time, they feel it their duty to apprise you that the large commercial interests of this city frequently impose considerable trouble on its representatives, in numerous applications which must necessarily be made to the Board of Treasury, and other public offices. In the multiplicity of your professional engagements, they have conceived that it is possible you may not wish to be burthened with the trouble of representing us ; but some of them, who know your systematic and indefatigable exertions in business, indulge a confident hope that you will accede to their request ; and they desire me to say that on their parts no pains shall be spared to accomplish the object of their most anxious wishes. I feel, Sir, that I ought to apologise to you, on behalf of my friends and myself, for taking this freedom with a gentleman personally unknown to every one of us ; but our sole object in requesting you to become a candidate, whenever the vacancy shall occur, is with a view to the public service ; and, in the present critical state of affairs, we have thought that your opinions in Parliament might possibly derive some additional weight from being the representative of the second city in the kingdom : and this must be our apology. It is important for us to learn your sentiments as early as possible ; and, if you will have the goodness to favour me with them at your earliest possible convenience, I will immediately communicate them to your other friends.

“ I have the honour to be, Sir,

“ Your most obedient and faithful humble servant,

“ Bristol, Dec. 14, 1811.”

“ WINTOUR HARRIS, Jun.

I returned the following answer:—

“ Sir,

“ Lincoln's Inn, Dec. 17, 1811.

“ I have received the honour of your letter of the 14th instant, apprizing me that several gentlemen who are members of the Independent and Constitutional Club, established in Bristol for the avowed purpose of preserving the freedom of election, are desirous of putting me in nomination to represent the city in Parliament, provided they have my sanction to do so. Nothing, Sir, could be more gratifying to me than to be returned to Parliament by the city of Bristol. To receive such a testimonial of approbation of my public conduct from so numerous and so highly respectable a body of electors, would be considered by me as the highest honour I could attain, and as the noblest reward I could receive for my humble but anxious endeavours faithfully to discharge my duty to the public. It would afford me, too, the most lively satisfaction to find the opinions I have maintained, and the principles I have acted on, strengthened and supported by such authority. As I have scarcely the honour of a personal acquaintance with any individual in Bristol, it is those principles and opinions alone which can possibly have recommended me to their notice; and I can hardly express to you how very grateful it would be to me, to owe a seat in Parliament, and as the representative of such a city, to no personal favour, even with respect to a single vote, to no promises, to no professions, to no local interest, to no solicitation on my part, but solely to the favourable opinion which the electors entertained of my past conduct. But, favourably as some gentlemen may be disposed to think of me, it may perhaps be impossible that I should be elected to represent your city, without engaging personally in a contest, or canvassing for votes. You, Sir, who undoubtedly know what is likely to be expected by the electors, must be well able to judge of this. For myself, I can only say that, highly as I should prize the honour of representing Bristol, it is that which I should not a moment hesitate to forego, if, in order to obtain it, it were necessary for me to engage in

a personal contest, or to enter upon a canvass of the voters, or even to take any step which could be considered as announcing myself as a candidate previous to a dissolution of Parliament or to a vacancy in the representation of the city. A stranger, personally, to every elector, I know not on what pretence I could put myself forward as a candidate, or ask them for their votes. It would be unnecessary to do so if my past services in Parliament have, in their opinion, rendered me worthy of the honour of representing them; and if they have not, it would be a very foolish presumption in me to aspire to that honour. I observe what you are pleased to suggest respecting the applications necessary to be made by a representative of Bristol to the Treasury and other public boards. With the extent and nature of those applications I am unacquainted; it is quite impossible for me, therefore, to judge how far they may be compatible with my present unavoidable occupations; and I would not, for any consideration, hold out to the electors expectations which I could not fulfil. Though I would most cheerfully devote to the performance of such services all the time that I could properly withdraw from my other labours, yet I am bound to say that, as long as I continue in the profession which I now follow, I am afraid that it will be scarcely possible for me to give any very considerable portion of time to applications and attendances upon public boards, and at the same time keep the engagements which I have entered into with those who have entrusted to my hands interests which to them are highly important. I have thought it right to be thus frank and explicit; for, proportioned to the satisfaction which I should feel at being one of the representatives of Bristol, would be the mortification I should experience, if, after having been raised to that honourable station, I should be found to disappoint the expectations of those who had placed me there. Let me beg of you, Sir, to accept my best thanks for the very kind and flattering terms in which you have been pleased to make this communication to me.

“ I have the honour to be, Sir,

“ Your most obedient and faithful servant,

“ SAMUEL ROMILLY.”

1812.

Jan. 6th. I attended a meeting at Stephen's with Wilberforce, Brougham, and Babington, to consider what measures it would be necessary *Slave trade.* to take, to make effectual the Act which has passed for the abolition of the slave trade. The most effectual measure appeared to all of us to be the establishing a registry for slaves in all the islands, and a law that every negro not registered should be free; and it was determined that an attempt should be made to procure an Act of Parliament for this purpose.

7th. Parliament met.

The state of Bristol I find is this: It has been long agreed between the leaders of the Whig and *Bristol election.* Tory parties in that city not to interfere with each other in the election; but that each party should have its own member, who should be the person proposed by each of the two great political clubs which have been formed there. Mr. Bathurst is the Tory member, and it is intended that he should be re-elected. In the place of Mr. Baillie, it has been proposed to choose me. Some other candidates, however, have been, within a few days, talked of. Admiral Berkeley has been named by some of his friends, but on finding that he had no chance of success, his pretensions have been withdrawn. Another candidate, who may, I understand, very probably have a large party in his favour, is Mr. Edward Protheroe, a Bristol man, who lately was *Mr. Protheroe.* a banker there, though he now resides in London. He professes to be a Whig, though he seconded at a public meeting a motion for an address of congratulation to the King on dismissing his Ministers in 1807. At the club of the Whig party, which met 7th of January, this gentleman was proposed and supported, I understand, by some of his friends with much eagerness. His claims, however, were rejected by a very large majority;

and the following resolution was adopted :—“ Resolved, that Sir Samuel Romilly is a fit person to represent the Whig interest of the city of Bristol in the ensuing Parliament, provided he can assure this club, through their chairman, that his professional duties are not of such a nature as to prevent his attendance in the committees of the House of Commons, and other duties attendant on the representative of the city of Bristol.”

In answer to the letter of Mr. Claxton, the chairman of the club, who transmitted this resolution to me, I said, “ I have lately endeavoured to ascertain the nature and probable extent and frequency of such attendances and duties; and, from what I am able to learn, I have no hesitation in assuring the club that, if I should have the honour of being returned to represent the city, I will give these attendances and discharge these duties.”

Mr. Protheroe, or his friends, disregarding the determination of the club, are very actively canvassing Bristol; and both the candidate and his brother, Sir Henry Protheroe, have published in the newspapers addresses to the electors. Another gentleman, a Mr. Hunt, has also advertised that he is a candidate, and that his principles are those of Sir Francis Burdett; and he asks the electors whether it is right to elect a man who voted against an amendment to the address to the Regent, proposed by that Baronet on the first day of the session. He took for granted that I had so voted, though in truth I was not in the House at the time of the division. If I had been there I certainly should have voted against it. My Bristol friends have pressed me very much to publish an address to the electors; though very unwilling to do so, I have yielded to their wishes, and have this day, 17th January, sent them an address in these words :—

“ To the Gentlemen, Clergy, Freeholders, and Free-men of the City of Bristol.

“ Gentlemen,

“ A stranger to the city of Bristol, and having

*Resolution of
the Independent and Constitutional
Club.*

scarcely a personal acquaintance with any of its inhabitants, it would have been very great presumption in me spontaneously to have offered myself as a candidate to represent you in Parliament. I had not the vanity to imagine that my humble endeavours faithfully to discharge my duty as a member of the House of Commons could have attracted your notice. It has, however, been represented to me by some highly respectable electors of Bristol, that the manner in which I have sought to discharge that duty has been looked upon by many of you in so favourable a light, that they are desirous that I should be proposed to be one of your representatives. By this intimation alone it is that I am encouraged to say that to be returned to Parliament by your free and independent suffrages is an honour which I should prize more highly than any other that could be conferred upon me. The very circumstance of my being known to you only as I am known to all the other electors of Great Britain, would, in my estimation, greatly enhance the value of so enviable a distinction; and I should proudly exult at being able to enter the House of Commons with such authority for the opinions I have maintained, and the principles on which I have acted, as they would derive from your unsolicited and honourable choice. After saying this, it is hardly necessary for me to observe that I am not about to commence a personal canvass for your votes. If my past conduct has in your judgment rendered me worthy the high honour of being your representative, it is unnecessary for me to go about soliciting your suffrages; and if it has not, I know of no ground upon which I could presume to make such a request, for I have ever found that those who are most ready with professions are most tardy in performance."

17th. There has of late been a very great increase of crimes in the metropolis; and some of the outrages which have been committed are marked with a character of savage atrocity which is without example in this country. Mr. Ryder,

*My address
to the elec-
tors.*

*Bad police of
the metro-
polis.*

the Secretary of State, has, in consequence of these enormities, moved this day that a committee should be appointed to inquire into the state of the nightly watch. I expressed on this occasion (as I felt) great surprise and disappointment that for such an evil such a remedy should be thought of. Crimes had multiplied, and this, too, in a time of war (during which crimes have generally been observed to be comparatively few in number), to a most alarming degree.* Two whole families, one consisting of four and the other of three persons, had, at a very short distance of time, been murdered in their houses;¹ and the Minister proposes nothing more than to inquire into the state of the nightly watch. I suggested that the inquiry should be into the causes of the late increase of crimes, or into the state of the police. I stated that I believed that amongst the foremost causes of this increase would be found the mode of punishment now in use, that of imprisonment on board the hulks, or of promiscuous imprisonment in gaols; which turned loose upon the public the convicts, at the end of their terms of punishment, much more hardened and profligate than they were before. I spoke of the system, now in use, of giving rewards for the apprehension and conviction of offenders of some descriptions, such as burglars and robbers on the highway, as extremely pernicious; since it gave a direct interest to the police officers and thief-takers that crimes of great atrocity, but extremely profitable to them, should greatly multiply. After the debate had continued for some time, Abercromby moved as an

* The number of persons committed for trial at the Old Bailey for the last six years, for offences of all descriptions, have been as follows:—

In 1806	.	.	899	In 1809	.	.	1242
1807	.	.	1017	1810	.	.	1214
1808	.	.	1110	1811	.	.	1252

Vide *infra*, June 22, 1815.

¹ The murders of the families of Marr and Williamson: the first took place on the 7th and the last on the 19th of the preceding month.—ED.

amendment, that the inquiry should also extend to the state of the police of the metropolis, which Ryder at last agreed to; and the committee has been so appointed. Perceval, in the course of the debate, said, he doubted whether it would not be expedient, if any alteration were made with respect to rewards, to extend them to all crimes (proportioning the amount of the reward to the enormity of the crime), rather than to take them away as to any.

23rd. Lord Folkstone moved for a committee to inquire into the state of the inferior Ecclesiastical Courts. What led to this motion was a petition presented by a young woman¹ not of age, who has been confined two years, having been arrested on a writ *de excommunicato capiendo*, for not paying costs in a suit for defamation. Sir William Scott defended the Spiritual Courts with great adroitness. I spoke after him, and strongly endeavoured to impress on the House the mischiefs of this power of excommunication which the Spiritual Courts possessed.† I took advantage of what Sir William had said upon excommunication, as being a very inexpedient mode of enforcing obedience to a judgment; and I pressed him very strongly, as being the person best qualified for it, to undertake himself the task of reforming this by a statute; and I represented to him how few difficulties he, as a friend to the administration, was likely to encounter in such an attempt, and what good he might do by such a measure. Several persons

* This Committee has since made a report, the object of which seems to have been to suppress all information as to the present state of the police. It contains no evidence, and does little more than refer to some old Acts of Parliament.

† I mentioned that the evil had been stated to Parliament in King James's time, by a message from that prince, delivered by the Archbishop of Canterbury.—Vide *Lords' Journals*, 1st April, 1606. No remedy, however, had ever been applied.

¹ Mary Anne Dix; her case, as stated in her own petition to the House of Commons, will be found in Hansard's *Parl. Deb.*, vol. xxi. p. 99.—ED.

who spoke afterwards adopted this idea, and the matter ended by Sir William Scott undertaking to prepare and bring in a Bill for the purpose.¹

31st. I moved for some return of convicts.

Having been told by some of my Bristol friends that *Bristol elec-* my address had been understood to mean that *tion.* I would not, even when an election should take place, go near Bristol; and that it was very important that they should be undeceived in this respect, and that they should have some public assurance that I was not unwilling to undertake their business; I wrote a letter to Mr. Edge, at Bristol, and gave him permission to publish it as he might choose. My letter was in these words:—

“Sir,

“Lincoln’s Inn, Jan. 31.

“I have learned with much surprise that the declaration in my address to the electors of Bristol, that I was not about to commence a personal canvass for their votes has been construed to mean, that I intended, whenever an election might take place, to remain in London, as if I were little interested in the event of it. Nothing certainly could have been further from my meaning; and I really should have hardly thought it possible that such an interpretation could have been put upon my words. It is, and always was, my intention, upon a dissolution of Parliament, to hasten to Bristol, and there offer myself to the choice of the electors, and to express to them my gratitude for the honour which I have been led to believe they would confer upon me. But I entertain too high an opinion of the public spirit of the citizens of Bristol to believe that at any time, and much less in such times as those we live in, their votes are to be gained by the personal attentions, and individual flatteries, and the other little artifices which are so often resorted to at elections. I am at this moment canvassing for their votes, and I shall continue to canvass for them,

¹ This Bill was brought in, and it passed into a law in the next Parliament. See *infra*, July, 1813.—ED.

by a close attendance in Parliament, and by an anxious care not to neglect my public duty. These are the only arts I am practising, and which I shall continue to practise, to obtain their suffrages. Another opinion which I am told has been propagated is, that, as a Member for Bristol, I should be either unable or unwilling to give that time to the local and particular interests of my constituents which they would demand. This opinion is just as unfounded as the former. As I would never consent to be placed in any situation in which I should be unable to discharge the duties which might justly be expected from me, it was not till I had ascertained, as well as I could, the nature and extent of the business which usually devolves upon the representatives of Bristol, and found that I could well undertake it, that I presumed to address the electors. I have presumed, Sir, to trouble you with this letter, in the hope that you would have the kindness to endeavour to remove these misconceptions, if they really exist. I am, &c."

This letter was printed in all the Bristol newspapers.

Feb. 7th. On the second reading of the Bill to prevent the granting places in reversion, Perceval, *Reversion Bill.* without giving any previous notice of his intention, opposed it; although on former occasions the Bill had passed the Commons almost without opposition. I spoke in support of the Bill. It was rejected in a thin House by a majority of two.¹

On the same day I moved for, and obtained leave to bring in a Bill to repeal the Act of 39 Eliz. *Bill to repeal 39 Eliz.* c. 17., which makes it a capital offence for soldiers or mariners to wander and beg, without a pass from the magistrate or their commanding officer. (Vide *infrd*, p. 243.)

12th. I moved for a committee to inquire into the manner in which sentences of transportation have been executed, and into the effects which have been produced by that mode of punishment to *New South Wales.*

¹ The numbers were—for the second reading of the Bill, 54; against it, 56.—ED.

ment. The Ministers did not oppose it, and the Committee was appointed.*

18th. On this day the restrictions imposed by Parliament on the Regent cease ; and this is the period which he has been pleased for some time to mention as that at which he should think himself at liberty to call into his service such Ministers as he approved of. Why this period was fixed on for that purpose it is not easy to say. That, as long as any hope was entertained of the King's recovery, the Prince might think the reasons which induced him to continue the present Ministers ought still to operate, is intelligible ; but why, when all hope was gone, the exercise of his own judgment, on a point so important to the people he is called upon to govern, should still be postponed, was incomprehensible till within these few days, which have unravelled the mystery. His Royal Highness, it seems, notwithstanding all his professions, in spite of his letter of last year to Mr. Perceval,¹ and in spite of the hopes and expectations which he has held out to the Catholics of Ireland, had determined to retain the present Ministers, or at least such of them as would remain in his service ; and the longer the avowal of that determination was postponed, the greater chance there was that something or other might happen which might afford a decent apology for a step which must to the whole nation appear so extraordinary. No such event, however, has happened. The large minority which appeared upon the question respecting Ireland, frustrated a plan which had been laid to get the House of Commons to adopt some resolution that should seem to set the question of Catholic Emancipation at rest, at least for the present ; and it was with a view to this that Sir John Nicholl was induced to put himself forward in the debate as the opposer of the Catholics. The turn, however, of the debate and the

* See a Report of this Committee ordered to be printed, 10th July, 1812.

¹ Vide *suprà*, p. 178.—ED.

numbers¹ on the division defeated the project; and the Prince has been obliged, in a letter to the Duke of York, written for the purpose of being communicated to Lord Grey and Lord Grenville, to avow his intention. He has proposed, indeed, a coalition with Mr. Perceval,—a proposal which he knew must be rejected. The very proposal, indeed, imports that a total sacrifice of honour and of character was a necessary qualification for entering into the Prince's service. He says in the letter that he has no predilection to indulge and no resentment to gratify: a most dangerous statement at the commencement of his reign, considering his past conduct and his past professions. It will be understood to mean that there are no injuries he will not forgive, and no services he will not forget. A declaration better calculated to estrange from him all his friends, if he has any remaining, and to invite the most violent personal opposition to his government (since everything at a convenient time may be forgiven), could hardly have been invented. In the beginning of the letter he seems to affect to consider the question of Catholic Emancipation as disposed of by the fate of the late motion in the House of Commons. This was intended, undoubtedly; but, as I have already observed, the scheme was frustrated. The newspapers in the pay of Government, finding how ill the idea of a coalition with Mr. Perceval has been received by the public, pretend, and some of the Prince's immediate dependents pretend, that this was not his Royal Highness's meaning. But what doubt can be entertained of it? The Prince, after pronouncing the highest panegyric on the conduct of his present Ministers, says, that he cannot conclude without expressing the gratification he should feel, if *some* of those persons with whom the early habits of his public life were formed would strengthen his hands, and

*The Regent's
letter to the
Duke of
York.*

¹ The debate took place on the 3rd and 4th February, on Lord Morpeth's motion that the House resolve itself into a committee of the whole House, to take into consideration the present state of Ireland; and the numbers in favour of the motion were 135, against it 229.—ED.

constitute a part of his Government; and he adds in a postscript, that he should send a copy of the letter immediately to Mr. Perceval. The proposal was immediately rejected by Lord Grey and Lord Grenville. Lord Wellesley, it seems, had before tendered his resignation, and Lord Castlereagh is to succeed him. What other changes are to take place is not yet known, and perhaps not determined.

The Prince does not pass a day without visiting Lady Hertford.¹

24th, Mon. In the course of the last summer, the *Colonel M^oMahon's* Prince appointed his secretary, Colonel M^oMahon's hon, to the office of Paymaster of Widows' sinecure. Pensions, which had become vacant by the death of General Fox. The office produces about 2700*l.* a-year to the holder of it, but it is a complete sinecure, and the propriety of abolishing it has been stated in several reports of committees of the House of Commons. The House this day, on the motion of Mr. Bankes, refused to vote the money to pay the salary of the office. The numbers on the division were 115 and 112, so that the Ministers were in a minority of 3.²

26th, Wed. Michael Angelo Taylor renewed his motion *Delays in the Court of Chancery.* for a committee to inquire into the causes which have delayed the decision of suits in Chancery. Perceval did not oppose the motion; but he has prevailed on Taylor to let him make such changes in the members of the Committee, that I expect no good from any report they will be disposed to make. At Perceval's suggestion, Master Simeon has been added to the Committee. When his name was read, I opposed his being upon it, and moved to substitute Mr. C. Williams Wynn. I did not, however, divide the House, as there were hardly forty members present, and I had no chance of success. I said that I thought that neither Mr. Simeon nor Mr. Edward Morris ought to be on the Committee, not on account of any objection that could possibly

¹ Vide *suprà*, p. 15.—ED.

² Sir S. Romilly voted in the majority.—ED.

be taken to either of them personally, but because they were Masters in Chancery. The Master of the Rolls, who had been on the Committee appointed in the last session, had desired that he might not be again placed in that situation ; there being, in his opinion, an impropriety in a Judge of the Court sitting upon a committee to inquire into that which might possibly implicate himself. His name was accordingly omitted ; and the objection was certainly a very just one in point of principle, though there was no person at all acquainted with the Court who did not know that it never could enter into the imagination of any man that any part of the delays complained of was imputable to the Master of the Rolls. The same objection applied with equal force to the Masters in Chancery, who were subordinate Judges of the Court. I said that, in my opinion, the Committee would ill discharge their duty, if, amongst other objects of their inquiry, they did not endeavour to ascertain the cause of suits being so many years, as it was notorious they were, depending in the Masters' offices. I added, that I did not believe that the Masters were at all to blame in this ; that they gave all the attendance in their offices which was necessary to go through the business brought before them ; but that, probably, the defect was in the modes of proceeding, established according to the constitution of the Court, and that the proper remedy would be an alteration of the present practice ; that this, however, remained to be ascertained ; and, although improbable, it might possibly happen that, in the progress of the inquiry, abuses might be suggested to exist in some of the Masters' offices : that in such an event it would be extremely invidious for the Masters who were on the Committee to prosecute inquiries tending to criminate their colleagues, and that if any abuse should by chance be said to exist in their own offices, it would be a very strange situation that solicitors and other witnesses would be placed in, who would be called upon to give evidence before the Committee against some of its own members ; and a still

*Masters in
Chancery not
fit members of
a committee to
inquire into
the delays of
the Court.*

stranger situation in which the Masters would be placed, whose duty it might be to make a report against themselves.

March 5th, Th. Benjamin Walsh, a member of the House of Commons, was this day expelled the House. I was one of a very small minority, consisting only of eighteen persons, who voted against his expulsion. He had certainly been guilty of most dishonest conduct; but I thought the expelling him would establish a precedent of which very dangerous use might be made hereafter. As I did not speak, I am the more desirous of preserving the reasons for my vote. Walsh had been tried at the Old Bailey for felony, in stealing bank-notes to a very great amount from Sir Thomas Plumer, and he was convicted; but a case was reserved on the conviction for the opinion of the Judges, who were unanimously of opinion that what he had done did not amount to felony, and therefore that he ought to have been acquitted. It was clear, too, that the facts of the case did not constitute a misdemeanour, or any offence whatever, cognizable before any criminal tribunal; but they amounted to a private and fraudulent breach of trust, committed with very aggravated circumstances. I thought it extremely dangerous that the House of Commons should assume to itself a power of expelling any of its members, merely on the ground of their having been guilty of gross immorality. Such a censorial power cannot be entrusted to a popular assembly, acting, as it often necessarily must act, under the influence of political prejudices, without being liable to the greatest abuse. There was a further, and, as it appeared to me, a very solid ground which decided my vote. The House, I thought, had no evidence of the fact, whatever might really be its character, on which it could proceed. It had before it only the record of the conviction, a letter of the Chief Baron to the Secretary of State, containing the opinion of the Judges, and a private letter from Walsh to his brother, which had been produced in evidence upon the trial. This letter had been put into the post-office, and had

there been opened and delivered to Sir Thomas Plumer, to be used as evidence against Walsh.* Nothing could justify the opening this letter, or putting it into the hands of any other person than the individual to whom it was confidentially addressed, but that the author of it had been guilty of felony or some other crime, and that without the production of it there would be a failure of justice. The moment it was decided by the Judges that no crime had been committed, the letter ought to have been considered as under the seal of the public faith to which it was entrusted. The facts which the jury had found upon the evidence of this letter alone ought to have been considered as unproved; and it appeared to me to be inconsistent with the honour of the House to take as original evidence produced before its own body a letter which had been opened in violation of the trust which men are invited to repose in the post-office, upon a pretence which turned out to be false. The minority consisted, on this occasion, with the exception of a single individual, of men who always vote with the Opposition. Walsh, however, had never in any one instance, while he was in Parliament, voted against the Ministers.

13th, *Fri.* On occasion of a Bill for building a work-house and making regulations for the management of the poor in the parish of Stroud in Kent, I again called the attention of the House of Commons to the evil of passing these local Poor Bills, which make a different state of the poor laws and the criminal law in each particular parish which chooses to apply for such a Bill.† In the Bill now before the House, and which stood for the third reading, I objected, first, to a power given to the trustees to bind poor children apprentices at any age, and I proposed to fix the earliest age at which they might be bound at ten years; secondly, to a power to bind children apprentices to per-

* I have since been informed that this letter was not intercepted at the post-office, but that it was obtained by some other surreptitious means.

† Vide *suprà*, p. 190.

sons residing in Scotland ; and thirdly, to a power in the trustees to let out the poor to any persons, to labour of any kind, and for any term. Sir Edward Knatchbull, the Member for Kent, who brought in the Bill, opposed my amendments ; but on a division I carried my first proposed amendment ; and the opinion of the House appearing to be strongly against him on the other two, he conceded them to me ; and all the passages I objected to were struck out.

On the same day, on the third reading of the Mutiny *Military punishments* Bill, Sir Francis Burdett proposed a clause to abolish the punishment of flogging in the army. I was one of only eight,¹ including the tellers, who divided with him in support of the clause. I spoke too in support of it ; and in the course of my speech I vindicated my friend Brougham, who had been accused of making a most extravagant and exaggerated statement, because he had said, on a former occasion, that for very serious offences it would be better to punish soldiers by shooting than by flogging them ; and I mentioned what I had read a few days before in the *Transactions of the Missionary Society*. In the journal of one of the missionaries at the Cape of Good Hope are the following passages :—“ July 14th, 1810. A soldier belonging to the Cape regiment had been tried for desertion, and was condemned to die.” It then proceeds with an account of his being attended by one of the missionaries, and his conversion previous to his being shot. “ Another, who had been also guilty of desertion, and who was to receive 1000 lashes, appeared more impressed. He received but 224 lashes, the surgeon judging that he was not able to bear more, and thus he was for this time freed. Being brought to the hospital, he remained there some weeks, and died. Brother Read, visiting him before his dissolution, gave us likewise hope of his salvation.”—(*Transactions of the Missionary Society*, vol. iii. p. 392) The facts are here mentioned without any observation, and are preserved only incidentally, and

¹ The numbers against the clause were 79.—ED.

as necessary to state, what is the business of the journal, the successful spiritual labours of the missionaries.

We have here, for the more aggravated crime, a criminal simply deprived of life; and for the slighter offence, another put to death with exquisite tortures; and by his sentence doomed to suffer four times as much misery as God had given him a capacity of enduring. Who can doubt that in this instance, and in many more which have occurred, a sentence of death would have been a sentence of mercy?

18th, *Wed.* The Bill which I brought into the House of Commons to repeal the Act of Queen Elizabeth, which punishes with death soldiers and mariners who are found begging, passed the House of Lords to-day;¹ but with the amendment of leaving out one word, which

*Bill to repeal
39 Eliz.
against sol-
diers and
mariners beg-
ging.*

Lord Ellenborough made a point of having struck out of the Bill. The Bill, as it passed the Commons, *Lord Ellen-
borough.* recited that it was *highly* expedient that the Act of Elizabeth should be repealed; and this word "highly" it was which gave offence to his Lordship. The Lord Chancellor this morning in Court sent me down a note in these words:—"The Bill about sailors and soldiers will pass our House to-day. Lord Ellenborough objected to the word *highly*, and said he would attend to move the amendment. The preamble now stands, that it is *expedient* to repeal, without the words *highly expedient*. There seemed to be a notion that this statute was impliedly repealed by some other—what I know not—but I did not think it *tanti* to have discussion upon it. A statute inflicting death may be, and ought to be, repealed, if it be *in any degree* expedient, without its being *highly so*. We, therefore, so settled the matter with the Chief Justice."

20th, *Fri.* Mr. Lockhart has brought in a Bill similar to one he brought into the House last session, to compel the registering of all charitable *Abuses of
charitable
trusts.* trusts. On moving for leave to bring it in, he stated that he should adopt the suggestion thrown out

¹ The Act is the 52 Geo. III. c. 31.—ED.

by me last year,* and provide by his Bill a more summary remedy for the correction of the abuses of such trusts. He afterwards applied to me, and I drew such clauses as I thought would answer the purpose, which he has since incorporated in the Bill. It accordingly provides that, in every case of a breach, or supposed breach, of any trust created for charitable purposes, it shall be lawful for any two persons to present a petition to the Lord Chancellor, Master of the Rolls, or Court of Exchequer, who are required to hear such petition in a summary way upon affidavits, and make such order as shall be just; which order shall be final, unless the party who thinks himself aggrieved shall within two years appeal to the House of Lords, to whom it declares that an appeal shall lie. The petitions are to be signed by the persons preferring them, and attested by their solicitor, and are to be first allowed by the Attorney or Solicitor-General; and none of the proceedings upon such petitions are to be liable to any stamp-duty. To-day, before the House went into a committee on this Bill, the House resolved, on my motion, that it should be an instruction to the Committee, to separate the Bill into two Bills. My clauses, therefore, now constitute a separate Bill.†

31st, *Easter Tuesday*. My friends at Bristol have for some time pressed me very much to make them a visit, not for the purpose of canvassing, but merely to show myself there, which they think will be of great service to my cause. Those gentlemen who have been canvassing for me have, therefore, determined to have a public dinner, to which they have invited me, and I have accepted their invitation. It was fixed for this time, as being the Easter holidays, when it was known I should have a few days of leisure. I accordingly set out this day for Bristol, and slept at Reading. Mr. Vizard, the solicitor of Lincoln's Inn, who has many friends at Bristol, accompanied me in my journey.

April 1st, Wed. I arrived at Bath.

* Vide *suprà*, p. 193.

† This Bill was suffered to pass without alterations, and is the statute 52 Geo. III. c. 101.

2nd, Th. Three of the stewards for the dinner came over to Bath, for the purpose of accompanying *My reception at Bristol.* me into Bristol. We arrived there about half after one o'clock. A great number of persons came out on horseback to meet us. The crowd assembled at the distance of about a mile from the city was immense. A phaëton was brought that I might enter the city in it; and the people took off the horses, and insisted upon drawing me themselves. The weather was extremely unfavourable, and at intervals there fell a good deal of rain. An immense multitude, however, was assembled, and thronged all the streets; the windows and the tops of the houses were crowded, and all the shops were shut. In this manner I entered Bristol, amidst the repeated huzzas of the people. Nothing could be more unpleasant to me than all this parade, and I had done everything in my power to prevent it; but it was unavoidable; and I was assured that if I were to come into the city unexpectedly, so as to prevent such a reception, it would be attended with great dissatisfaction, and might do me much harm. I can most sincerely say that my unwillingness to disappoint and give pain to the persons who have been zealously exerting themselves in my behalf has greatly contributed to induce me to submit to these ceremonies, which are to me so disagreeable. On my arrival at the Bush Tavern, where my committee meet, I had, as is usual on such occasions, to address the people. I told them, amongst other things, that I had no professions to make them, except that I would persevere in that line of conduct which had obtained for me their approbation. I gave them, too, my reason for not canvassing them; I said that it was out of respect to them; that votes which were not asked for acquired a value from the very circumstance of their being unsolicited; that, as such votes could only be given from public motives, they were always honourable both to the giver and to those for whom they were given; and I earnestly exhorted them not to suffer the peace of the city to be interrupted by any disturbance. No disturbance did take place in any part of the city; and before night the whole crowd had quietly dispersed.

The dinner was very numerously attended. After dinner, on my health being drunk, I addressed the meeting at considerable length, in a speech which was very favourably received. Its merit consisted more in what I omitted than in what I said.* I

* A tolerably accurate account of this speech¹ appeared in the Bristol newspapers, and was copied from thence into most of the London papers, particularly the *Times* of Tuesday, April 7, in which it was printed most at length.

¹ The following is the newspaper report of the speech referred to.—ED.

“ I return you my most sincere thanks for the honour you have done me. These, Gentlemen, are terms which but faintly express the sentiments I feel on this occasion. Indeed no expressions that I can use, and, I fear, no actions I can perform, can make an adequate return for the exertions you have made and are making in my favour. It is, indeed, only in the consciousness of the disinterested and patriotic motives by which you are actuated that you can find that return. When it was first intimated to me that my conduct in Parliament had attracted the notice of many of you, and had produced a desire that I should be put in nomination to be one of your representatives, I own that I received the information with the most heartfelt delight. Though I have never made public favour the object of my pursuit, yet I have always thought that, next to the satisfaction which every man feels from the consciousness of having endeavoured well and faithfully to discharge important duties, the best reward, in this life, of public conduct is the approbation and applause of a generous and enlightened public.

“ I rejoiced at it, too, from other and higher considerations than those which are personal to myself. I rejoiced to find that the sentiments and opinions and principles which I had entertained, and on which I had acted, on subjects of the deepest interest to the country, were probably the principles and sentiments of a great portion of the inhabitants of Bristol, and consequently, I believed, of a large portion of my countrymen in every part of the kingdom. I looked forward with exultation to the time when, in resisting measures which appeared to me to be the fruits of pernicious counsels, or in supporting or proposing those which I thought highly conducive to the best interests of the country, I should speak, not as an humble and unsupported individual, but with the weight and authority and commanding influence of this great and populous city.

“ I hailed it, too, as a most fortunate and auspicious circumstance, that preparatory to a general election, likely to take place

touched upon no topics calculated to court popular favour. I said nothing of a reform of Parliament, of pensions,

at a crisis more important than any that is to be found in our history since the Revolution, an example was likely to be set by the city of Bristol of looking for a representative towards men who could have no recommendation to favour but their public conduct, and in overlooking all personal favour and private attachment, when in competition with the interest of the nation. I could not doubt that such an example, set by a city which must have such influence on public opinion, would awaken other places of popular election to a sense of the importance of conscientiously exercising their elective rights in the return of a Parliament on whose wise and honest, or rash and corrupt councils, will depend everything that is most dear and valuable in life, everything that can most vitally affect ourselves and our posterity.

"In the midst, however, of the satisfaction which I felt, one reflection arose which has occasioned me much pain, and which has thrown a gloom over my mind, and has prevented my fully enjoying the splendour of the present day. I have been unable to avoid comparing, what it is too evident you have conceived me to be, with what I feel that I am. That I may not disappoint the expectations you have formed of me, is my wish rather than my hope; but there is no sacrifice that I will not submit to to accomplish it.

"Every man who offers himself as a candidate for popular representation puts himself, as it were, upon his trial before his country: he must expect the most severe inquiry into the whole of his past conduct, private as well as public. He must expect to hear the whole truth, and much more than the truth. It is not possible that, in the midst of the rivalry and of the other passions which such occasions excite, calumny should not often be mixed with just accusation. I cannot, however, consider it but as a circumstance highly honourable to this city, and creditable to those to whom I am opposed, and with respect to whom my pretensions may raise obstacles to their attaining the objects of their honourable ambition, that so very little has been objected to me, of which any honest man need be ashamed.

"Some things, however, have been objected to me, on which, if I am not trespassing too long on your patience, I should be glad to make a few observations. It has been said, that I once filled a public office, and that I am desirous of being again in such a situation, and of receiving a salary from the public money. It is true that I had the honour of being appointed his Majesty's Solicitor-General; and it is also true that if office were again offered to me under such circumstances that I could accept it without swerving in any degree from the line of conduct which I have hitherto pursued—so offered me that, by accepting it, instead of abandoning my principles, I should acquire the means of giving effect to them—it is true that I would accept it, and would receive the honest emoluments belong-

of sinecures, of economy in the public expenditure, of peace, or of any other of the subjects which are at the

ing to it. I should think, by so doing, I was not departing from, but discharging my duty—that I was only putting myself in a situation in which I could be more useful to the country than I can now be; but it is only by an adherence to the principles which I have hitherto professed that I can ever be useful in any situation.¹ I do not, however, believe that I shall be put to this test—I have little doubt that I am destined to pass the remainder of my life in privacy; and it is a destination with which I am well contented, for I had rather leave to my children only a name connected with measures which tend to increase the happiness, or to assuage the evil, of any portion of my fellow-subjects, than the proudest title which the Crown has to bestow, or the amplest possessions which the long enjoyment of the most lucrative offices could enable me to acquire.

"It has been said, I understand, that I cannot undertake to do that business relating to your local interest which is justly expected from the representatives of Bristol. To this my answer is, that I have said that I will undertake it. It has been observed, that to do so I must give up a large portion of that time which is now occupied in the pursuits of my profession; but I have made such sacrifices already to a considerable extent, and I am prepared to make still greater sacrifices in your service.

"I have seen it also stated, that I am a man devoted to a political party. Gentlemen, if by devotion to political party is meant the giving up my judgment, and voting, against my reason and conviction, for measures, because those with whom I generally act, and whose principles I approve, have adopted them, I wholly deny the charge, and I appeal to my conduct in Parliament for my defence; but if attachment to party means only an adherence to those whose public principles I wholly approve, and in whose hands I in my conscience believe the Government can be most safely entrusted, to that charge I have no defence to make. I reflect with satisfaction on my connexion with that administration of which one of the principal members was that illustrious statesman, that strenuous asserter of the cause of religious and civil liberty—the late, and ever to be lamented, Mr. Fox; on my connexion with that administration, which was not exempt from errors undoubtedly, but which carried the two measures which most tended to improve the condition of mankind of any that have taken place in the course of the present reign—the abolition of the slave trade, and the alteration of enlisting soldiers for a limited period, instead of enlisting them for life; thus preserving to those armed citizens an interest in the blessings of our constitution, and suspending only, not taking away from them, the trial by jury and the writ of Habeas Corpus. It is with satis-

¹ See vol. i. p. 157.

present moment generally so favourably received in public assemblies. I justified myself from some charges which I had seen brought against me in the election hand-bills and paragraphs of my opponents. I avowed my attachment to Lord Grey and Lord Grenville; said that I reflected with pleasure on my having been connected

faction, too, that I reflect upon the union of my name with those of the distinguished statesmen who are still preserved to us. That I had an office under the administration of which they were the chiefs, that I have enjoyed their friendship in retirement, and that when they are excluded from office because they will not abandon their principles, I have the honour to be comprehended in that exclusion, are to me matters of pride and exultation.

“ There is another matter, which perhaps does not deserve to be mentioned; and yet I should be glad to say a few words upon it. It has been published in this city that I am a foreigner, and that if you elect me you will send a foreigner to represent you in a British Parliament. Gentlemen, I was born and educated, and have passed my whole life, in England, with the exception of a short interval which was spent in visiting foreign countries. My father, too, was born and educated in England, and spent his whole life in it. My grandfather, it is true, was not an Englishman by birth, but he was an Englishman by choice. He was born the heir to a considerable landed estate at Montpelier, in the south of France. His ancestors had early imbibed and adopted the principles and doctrines of the reformed religion, and he had been educated himself in that religious faith. He had the misfortune to live soon after the time when the Edict of Nantes, the great toleration act of the Protestants of France, was revoked by Louis XIV., and he found himself exposed to all the vexations and persecutions of a bigoted and tyrannical government, for worshipping God in the manner which he believed was most acceptable to him. He determined to free himself from this bondage; he abandoned his property—he tore himself from his connexions—and sought an asylum in this land of liberty, where he had to support himself only by his own exertions. He embarked himself in trade; he educated his sons to useful trades; and he was contented at his death to leave them, instead of his original patrimony, no other inheritance than the habits of industry he had given them, the example of his own virtuous life, an hereditary detestation of tyranny and injustice, and an ardent zeal in the cause of civil and religious freedom. To him I owe it, among other inestimable blessings, that I am an Englishman. Gentlemen, this is my origin—I trust that I need not blush to own it.

“ Gentlemen, I am sorry to have so long detained you; I can but again return you my thanks. That I may be what you already so indulgently believe me to be, is the first wish of my heart, and shall be the unremitting study of my life.”

with their administration ; and admitted that, if I could with honour be again in office I would accept it ; but that I would accept it only if I could be of use to the public in it ; and that I was sensible that I never could be of any use, but by adhering steadily to the principles which I had hitherto professed. I vindicated myself from the false representation of my being a foreigner, and stated what my family really was.

My second address to the electors. 3rd, *Fri.* I this day wrote an address to the electors, to be inserted in the newspapers of to-morrow. It is in these words :—“ Gentlemen,—The reception I have met with from you has far surpassed the most sanguine expectations which I had been taught to form of your kindness and favour. Whatever may be the event of the election, I shall always be proud of the strong and unequivocal proofs of your approbation which I yesterday received. I can hardly, however, allow myself to doubt of the event ; and if I do not already anticipate the triumph which seems prepared, not for me as an individual, but for the principles and measures which have recommended me to your favour, it is because the language of moderation seems best suited to the occasion, and is most respectful to you.”

I dined this day at Mr. Castle’s, at whose house I am staying, with many gentlemen who are members of the committee formed to conduct my election, and some other of his friends.

4th, *Sat.* I set out for London, passed through Devizes, and slept at Maidenhead.

5th, *Sun.* I arrived in London.

15th, *Wed.* On a motion of Mr. Bennet for a return of the sentences of courts-martial for *Military punishments.* the last seven years, and the mode in which they had been executed, I had the satisfaction to express my sentiments at some length on those military punishments now in use, which are so disgraceful to us as a nation, and so shocking to humanity. On the division there were 17 and the two tellers, in all 19, for the motion ; against it [49].

Cobbett, in his last Saturday’s weekly paper, has made

an attack upon me, and under pretence of correcting misstatements in the newspaper accounts of what had passed at Bristol, has himself misstated those proceedings throughout. The truth is, that the account which he animadverts upon, and which was copied from a Bristol paper, is very accurate, and that Cobbett's account is false in almost every statement. As a specimen of his misrepresentations, he says, amongst other things, "If the report be correct, Sir Samuel Romilly not only told the company that he was willing to take *place* again, but that he should be *better able to serve them* in place than out of place; thereby avowing, it seems to me, the corrupt principle of ministerial influence." The passage in the speech thus represented by him, is, in the report he speaks of, in these words: "It has been objected to me that I once filled a public office, and that I am desirous of being again in that situation, and of receiving a salary out of the public money. It is true that I had the honour of being appointed his Majesty's Solicitor-General; and it is also true that if office were again offered to me under such circumstances that I could accept it without swerving in any degree from the line of conduct which I have hitherto pursued—so offered to me, that by accepting it, instead of abandoning my principles, I should acquire the means of giving effect to them—it is true that I would accept it, and would receive the honest emoluments belonging to it. I should think that by so doing I was not departing from, but discharging my duty; that I was only putting myself in a situation in which I could be more useful to the country than I can now be; but it is only by an adherence to the principles which I have hitherto professed that I can ever be useful in any situation. I do not, however, believe that I shall be put to that test: I have little doubt that I am destined to pass the remainder of my days in privacy, and it is a destination with which I am well contented; for I had rather leave to my children only a name connected with measures which tend to increase the happiness, or to assuage the evils, of any portion of my fellow-subjects, than the proudest title which the Crown has to

Cobbett's attack on me for what passed at Bristol.

bestow, or the amplest possession that the long enjoyment of the most lucrative offices could enable me to acquire." This specimen of Cobbett's fairness requires no comment. He threatens me with future attacks; says that he shall notice my speech more fully hereafter; * that at the dinner the toasts given were insults on the people, for which we shall have cause to repent before the close of the next poll at Bristol; with much more of the same kind; and he boasts of Mr. Hunt, his patriotism and popularity.

16th, Th. The Committee of the House of Commons appointed to inquire into the causes which have retarded the decisions of suits in the Court of Chancery, after several meetings, at which it had merely inquired into the state of the business in that Court and in the House of Lords, and into the progress which had been made in the decision of causes since their last report, met to-day for the purpose of determining in what course they should next proceed. It was suggested that the only course we could take was to call before us the principal persons who practise in the Court of Chancery, and to inquire of them what, in their opinion, and from their observations, were the causes of the delay. This was very strenuously opposed by many members of the Committee; by the Solicitor-General, who had never attended it before; by the Attorney-General by Master Simeon, Masters Morris, Leicester, Giffin Wilson, and Kenrick. They said that so to proceed was to prefer a charge against the Chancellor; that it was putting the counsel who would be examined in a very invidious situation; that it was destroying the respect which ought to be preserved towards a magistrate at the head of the judicature of the country; and that it was not difficult in any court to find some person who, thinking that his talents had not met with all the encouragement from the Court, which, in his own opinion, they seemed to deserve, entertained and would deliver a judgment unfavourable

* This he never did; but in a paper published long afterwards, in September, 1813 (the 11th or 18th), he complains of the number of letters he had received, and the uproar he had excited, by this attack on me.

to the Judge. To this it was answered, that it was very true, that counsel and attorneys who practised in the court would be put in a very unpleasant situation in being examined as to what might tend to censure the Judge of the court in which they practised; but that there did not appear to be any other authentic source of information which could be recurred to, and therefore that this must be submitted to; that it was singular that the friends of the Chancellor should take for granted that an inquiry from the persons best qualified to give information would necessarily criminate him: it would criminate him only if he were really to blame; and if he were, it was the duty of the Committee to ascertain the fact: that the objections now made were in truth objections to the appointment of any committee; and, the Committee being appointed, it was too late to make them: that it was very true that some one or two persons might perhaps be found in a court of justice, who, from pique and disappointment, might be desirous to calumniate and injure the Judge; but for one such person, it was probable that there would be found twenty who were eager to palliate the defects, to exaggerate the merits, and to seek the countenance and favour of the Judge in whose Court they practised. To bring the matter to a decision, I moved that Mr. Richards, as being the senior counsel attending the court who is not in Parliament, should be summoned to attend and give evidence. The seven persons I have already named voted against this resolution; those who voted for it were only six in number—Martin, Horner, Brougham, Abercromby, Bankes, and myself. Taylor, the chairman, had a right to vote, and then to give the casting vote; and by this means the question would have been carried; but Taylor did not know this, and did not vote, in consequence of which the question was lost. This puts an end to the Committee for any useful purpose.

24th, *Fri.* Upon an adjourned debate on Mr. Grattan's motion for a Committee of the House of Commons, to inquire into the state of the penal laws of Ireland affecting the Catholics, I spoke in

*Catholics;
disqualifying
laws against
them.*

support of the motion.¹ Amongst other things, I stated that I supported the motion not on account of the Catholics alone, but because I considered that it would naturally lead to the removal of all those disabilities under which Dissenters of every description from the Established Church now labour. Hitherto I have always given a silent vote on this question; but I was very glad on this occasion to take a more conspicuous part: because reports have been by some persons very industriously circulated, that I have been paying my court to the people of Bristol, where the Catholic cause is supposed to be very unpopular, by agreeing to abandon it.

May 4th, Mon. I voted for Mr. Bankes's Bill to abolish many sinecure places. The Ministers opposed the Bill, and were in a minority.²

6th, Wed. In consequence of what passed in the Committee upon the delays of the Court of Chancery, Taylor moved to-day in the House, that it should be an instruction to the Committee to examine barristers and solicitors practising in the Court upon the subject of the delays. The motion was rejected by a majority of 84 to 20. The two Masters in Chancery, Morris and Simeon, alone spoke against it. I said nothing, nothing having been advanced in argument which deserved an answer; but I voted in the minority.

7th, Th. Creevey moved several resolutions respecting the Tellerships of the Exchequer, now held by the Marquis of Buckingham, and Lord Camden, the profits of which have, in consequence of the immense issues of public money which the present expensive war renders necessary, risen to the enormous amount of 26,000*l.* or 27,000*l.* a-year each. The last of these resolutions was, "That, in the present state of unparalleled expenditure and distress, it was the duty of Parliament to exercise its right over the

¹ The motion was lost by a majority of 85; the numbers being, —for the question 215; against it 300.—ED.

² For the Bill 134; against it 123; majority 11.—ED.

fees of these offices, so as to confine the profits to some fixed and certain sums." Mr. Brand moved as an amendment to leave out all the words, and to substitute the following :—"That a committee should be appointed to inquire into the precedents which exist as to the reduction or suppression of fees payable to the Tellers of the Exchequer, from moneys issuing out of the same." The Ministers opposed both the original motion and the amendment; and upon the amendment a division took place, upon which I voted in the minority and for the motion. The minority consisted of only 38 and the two tellers.¹ The original motion was lost without a division. On this occasion, Ponsonby, Tierney, and the greatest part of the Opposition, joined the Ministers. Lord Grenville, indeed, had said that he considered the motion as aimed personally at himself, his family, and his friends; and most of the firm adherents to the Opposition party voted accordingly, or stayed away. In the minority, however, were Whitbread, General Ferguson, Lord Tavistock, Lord Archibald Hamilton, and Brougham.

8th, *Fri.* Mr. Brand's plan for a reform of Parliament came to-day before the House. His motion was merely for leave to bring in a Bill to give *Reform of Parliament.* copyholders a right to vote at county elections. He gave notice, however, that, if that were carried,² he should propose to abolish some of the close boroughs, and increase proportionably the number of members returned by counties. I spoke and voted for the motion. Amongst other things, I said that this Parliament was bound to take some steps towards a reform of the representation; because otherwise they would leave the influence of the Crown over the representation greater than they found it; the Act of the 49 Geo. III.³ to prevent the sale of seats, having in effect nearly secured to the Treasury the exclusive purchase of seats.

¹ The majority consisted of 146, exclusive of the tellers.—ED.

² The motion was lost by a majority of 127; the numbers being, —for it 88; against it 215.—ED.

³ *Vide supra*, p. 120.

12th, Tu. Yesterday afternoon, as Perceval was going to the House of Commons, he was most ^{Mr. Perceval} ~~most inhumanly~~ barously murdered by a man of the name of ~~murdered.~~ Bellingham. The assassin shot him with a pistol through the heart just as he was entering the lobby of the House, and he expired in less than ten minutes. No adequate cause can be discovered for so atrocious a crime. The wretch who perpetrated it had presented memorials to the Treasury soliciting a compensation for wrongs which he had suffered in Russia; but which, not having been incurred in the course of any public service, really afforded him no title to compensation. Perceval had, as was his duty, refused to listen to these applications; but he could hardly have accompanied his refusal with any harshness, for few men had ever less harshness in their nature than he had; and yet this seems to have been all that has provoked this most savage act. The assassin appeared, I understand (for I had left the House myself about a quarter of an hour before the event happened), perfectly cool and collected. He did not attempt to escape, went calmly to the fire, and laid down the pistol on the bench beside him; acknowledged to every one that he was the person who had done the act, and said that it was perfectly justifiable. There does not appear to have been any person concerned with him, or any mixture of political feeling in his motives. Among the multitude, however, whom the news of so strange and sudden a catastrophe had soon collected in the street, and about the avenues of the House, the most savage expressions of joy and exultation were heard; accompanied with regret that others, and particularly the Attorney-General, had not shared the same fate. Sentiments so horrible as these, together with the recent assassinations and attempts at assassinations which have taken place at Nottingham and in the North of England, are well calculated to excite the most lively alarms in the minds of all thinking men. The English character seems to have undergone some unaccountable and portentous change.

16th, Sat. Bellingham was yesterday brought to trial

at the Old Bailey, and convicted of the murder of Mr. Perceval. His counsel applied to the Court to *The murderer* put off his trial, in order that witnesses might *convicted*. be brought from Liverpool, where he had resided, and where his family now are, to prove that he is insane. As, however, he had been for the last four months in town, and, if he had been disordered in his mind, must, during that period, it was supposed, have given proofs of it, the Chief Justice (Mansfield) and the rest of the Court rejected the application. No person can have heard what the conduct and demeanour of this man have been since he committed the crime, or can have read his defence, without being satisfied that he is mad; but it is a species of madness which probably, for the security of mankind, ought not to exempt a man from being answerable for his actions. There certainly has been no acting in that calmness and steadiness of opinion uniformly manifested by him, that what he has done was perfectly justifiable, and that he has set an example which will be highly useful to mankind.* The application, however, to put off the trial was surely very reasonable, and it might well have been postponed, though but for a few days. It was not possible that a letter giving information of his crime and his apprehension could have reached Liverpool, where his family and all his friends reside, and an answer to it have been received by the day of his trial.

The House of Commons has been employed, since the murder of Perceval, in little else than voting money to his family, and a monument to his memory, at the public expense. I was present Provision for Perceval's family, and a public monument. on Tuesday, when an address was voted in answer to the Prince Regent's message, assuring his Royal Highness that the House would concur in making a provision for the family, and in that vote I concurred. To what has since been done to the extent to which the provision has been carried, by granting a pension to

* This extraordinary infatuation continued unaltered to the last moment of his existence; and he seems to have died in the firm conviction that he had done nothing wrong.

the eldest son, in addition to the pension to the widow, and the 50,000*l.* voted to all the children, and by voting that a public monument should be erected—I certainly should not have agreed if I had been present; but I have not been in the House since Tuesday. As a private man, I had a very great regard for Perceval. We went the same circuit together, and for many years I lived with him in a very delightful intimacy. No man could be more generous, more kind, or more friendly than he was. No man ever in private life had a nicer sense of honour. Never was there, I believe, a more affectionate husband or a more tender parent. It did not proceed from him that of late years our intimacy was totally interrupted. He would, I have no doubt, have been glad to have obliged me in everything that I could have wished; and that without any view of detaching me from my political friends, but from personal regard to me. It was I who refused his repeated invitations and shrunk from his kindness and friendship: but I could not endure the idea of living privately in intimacy with a man whose public conduct I in the highest degree disapproved, and whom, as a minister, I was constantly opposing. I cannot indeed reconcile to my way of thinking, that distinction between private and public virtues which it is so much the fashion to adopt. It may be called liberality, or gentlemanly feeling, or by any other such vague and indefinite term; but it is not suited to any one who is really in earnest and sincere in his politics.

20th, *Wed.* A negotiation has been depending between *Projected* the present Ministers and Lord Wellesley and *change in the* Mr. Canning; but it has gone off, and it *Ministry.* seems those two personages are not to form any part of the Administration. Vansittart has accepted the office of Chancellor of the Exchequer; and a new writ has been moved for this day for Old Sarum (the place he represents), in consequence of his promotion.

21st, *Th.* In some of to-day's newspapers, the letters and conversations which have recently passed between Lord Liverpool, Lord Wellesley, and Canning, on the subject of their coming into office, have been published.

According to Lord Liverpool's statement, the overture was made to them in consequence of the Regent being desirous of continuing his administration on its present basis, and of strengthening it as much as possible by associating to it persons who agreed most nearly in the principles on which public affairs had been conducted. On the Catholic question it appeared that the sentiments of the present Ministers were unaltered, and upon this Lord Wellesley and Canning refused to join them in an administration.

In the House of Commons to-day, Stuart Wortley (a man who supported Mr. Pitt's, and afterwards Perceval's administration uniformly) moved, *Address of the House of Commons to the Regent.* pursuant to a notice he gave yesterday, that the House should address the Regent, praying that he would take such measures as would enable him, under the present circumstances of the country, to form a strong and efficient administration. This motion was carried against the Ministers by a majority of four (174 against 170). Lord Yarmouth, George Rose, Bragge Bathurst, and some more friends of Ministers, happened to be out of the House at the time of the division, and came in the moment the doors were unlocked. On seeing this additional strength which they had acquired, Charles Yorke and Lord Castlereagh endeavoured to defeat the address, by opposing the motion that it should be carried up by such members as were Privy Counsellors. On this division the Ministers had a majority of two (176 to 174). But they were soon ashamed of this kind of victory; or, I believe, some other friends of ours had come into the House, and they saw that ultimately they should be beaten, and they therefore consented to a motion that the address should be carried up by the mover and seconder, Wortley and Lord Milton.

22d, *Fri.* All the Ministers have tendered their resignation to the Regent.

30th, *Sat.* No administration has yet been formed. Lord Wellesley and Lord Moira have several times seen the Prince on the subject, but nothing has been settled or seems likely to be settled immediately. In the mean

time, the resigned Ministers have translated Dr. Sparke, Bishop of Chester, to the Bishopric of Ely;* and yesterday, being the first day of term, Sir Vicary Gibbs, the Attorney-General, was sworn in a Judge of the Common Pleas, in the place of Lawrence, who has resigned.

I this day presented to the House of Commons a petition from Thomas Houlden, who was lately a prisoner for debt in Lincoln Castle, complaining of his having been confined by Dr. Illingworth, a magistrate, eleven days and nights in solitary imprisonment, in one of the cells appropriated to convicts condemned to die; and I gave notice of a motion which I shall make upon it on a future day.

Attempts to form a new administration. June 4th, Th. Although the address of the House of Commons was presented to the Regent the day after it was voted, and although the Prince said, in answer to it, that he would take it into his immediate consideration, it was not till last Monday, June 1st, that he gave authority to any person to submit to him the plan of a new Ministry. The interval was spent in audiences given to Lord Moira, to Lord Wellesley, to the Lord Chancellor, and to others of the present, or more properly the late, administration. On Monday, however, the Prince authorised Lord Wellesley to form an administration, and yesterday that nobleman said, in the House of Lords, that he had resigned the commission with which he had been honoured into the Regent's hands, without having been able to effect the object of it. I understand that the proposition made by Lord Wellesley to Lord Grenville and Lord Grey was this (and it was so proposed under the Prince's commands), that Lord Wellesley should be First Lord of the Treasury; that the Prince should name four members of the Cabinet; that four more should be named by Lord Wellesley; and four by Lords Grenville and Grey. Or if, upon further consideration, it should be thought expedient that the Cabinet should consist of thirteen members, then that five should be named by those Lords; and, at the same time, the

* Vide *suprà*, p. 129.

members named by the Prince were stated by Lord Wellesley to be, himself Lord Wellesley, Lord Moira, Lord Erskine, and Canning. The Lords Grenville and Grey rejected this proposal.

Since the failure of Lord Wellesley's commission to form an administration, a similar commission has been given to Lord Moira, but that too has failed ; Lords Grenville and Grey having very properly refused to be members of the Cabinet, unless the offices in the household usually appointed to by Ministers were to be at the disposal of the new Ministers. Lord Moira then in vain attempted to make a ministry without them ; but failing in this too, it has been to-day announced in both Houses of Parliament, that Lord Liverpool has been appointed First Lord of the Treasury ; or, in other words, that the Prince will try, notwithstanding the late address of the House of Commons, to go on with the old Ministers.

11th, *Th.* The House of Commons has this day acted in direct opposition to what they did on the 21st of *May*. They then addressed the Prince to form a strong and efficient administration. The same administration as was then forming now continues, and yet the House of Commons has rejected an address moved by Lord Milton in the spirit of the former address. The numbers were, for the address 165,¹ against it 289.

The whole of the negotiations for a new ministry have been conducted, unquestionably, with a previous determination on the part of the Prince and of those who enjoy his confidence, that they should not end in Lord Grey and Lord Grenville and their friends being in power. The Lord Chancellor has never, from the moment of the address of the House of Commons being carried, shown the least symptom of apprehension that he was to resign his office. During these three weeks that the Ministers have been represented by themselves as holding their offices only till their successors should be named, he has given judgment in none of the numerous causes, petitions,

¹ The number of the minority is stated in the Journals of the House to have been 164.—*Ed.*

and motions, which have been long waiting his decision ; though there never before was an instance of a Chancellor about to resign the Great Seal, who did not hasten to clear away all the arrears of his court. Instead of this, Lord Eldon has been every day closeted with the Duke of Cumberland ; and, during several days in the term, the court has been entirely shut up, while his Lordship was employed in some way never known to the suitors of his court, or to the public. We have even had the Duke of Cumberland coming down to Westminster Hall, and sending for the Chancellor out of court. The whole matter has ended pretty much as I expected. It might have been much worse if Lords Grey and Grenville had not been deterred from taking office by the obstacles which were purposely thrown in their way. They would have been suffered to remain in the Ministry but a very short time ; some pretext would have been anxiously watched for, and eagerly seized, to turn them out with loss of character ; or a new cry against popery would have been raised, and they would probably have been the victims of it.

19th, *Fri.* A Bill brought into Parliament by Henry Martin, to regulate the office of Registrar of the Court of Admiralty, came on to-day in the House of Commons.* It was opposed by Sir William Scott, Sir John Nicholl, and Sir Thomas Plumer, and was rejected.¹ I supported the Bill. The principle of it was to prevent the registrar from making profit for his own use of the suitors' money deposited in his hands ; and to establish regulations similar to those adopted in the Court of Chancery when the office of Accountant-General was created. Having no doubt that an officer of a court intrusted with the suitors' money cannot legally make interest of it for his own benefit, I stated this to be my opinion. I observed that one of the articles of impeachment against Lord Macclesfield (the

* Vide *ante*, p. 157.

¹ By a majority of 38 ; the numbers being, in favour of Sir W. Scott's amendment, that the Bill be read that day six months, 65 ; against it 27.—ED.

18th) was, that he had permitted and encouraged the Masters in Chancery to make profit of, and traffic with, the suitors' money: and I added that, if the House rejected this Bill, they would themselves be guilty of that crime of which they had formerly accused Lord Macclesfield; they would permit and encourage the registrar to employ and traffic with the money of the suitors. No one of the three lawyers who opposed the Bill ventured to assert that the practice was legal. It appeared that Lord Arden, the registrar, whose fees amount to about 12,000*l.* a year, has made 7000*l.* a year more by interest and profits of suitors' money, and that he has sometimes employed above 200,000*l.* of such money at interest.

25th, Th. I this day moved in the House of Commons for a committee to inquire into and report to *Lincoln Gaol.* the House what has been and now is the condition and treatment of prisoners confined in the Castle of Lincoln, and the state and management of that prison. The Committee was granted, and I am upon it; but I shall not be able to attend it.

A subscription has been set on foot to defray the expenses of my election at Bristol. This I greatly disapprove of; but the matter has been managed by Whitbread, Lord Folkstone, and some other friends of mine, who have acted from the best and kindest intentions; and I know not how publicly to disavow the proceeding, without offering an insult in return for great kindness and friendship. I have, however, privately expressed to some of them, particularly to Horner and Abercromby, how extremely unpleasant this proceeding is to me. I know not what else I could do; but the matter has proceeded too far to be abandoned.

29th, Mon. Sir William Scott moved for leave to bring in his long-promised Bill respecting the Ecclesiastical Courts. He a few days ago communicated it to me; and as far as it goes, it will, in my opinion, remove much of the evil arising from these Courts. I stated this in the House, and at the same time observed that I lamented that the Bill was not to be ex-

tended to Ireland. I observed, too, that I saw no reason why the whole of the jurisdiction of the spiritual courts in cases of defamation should not be abolished.¹

July 2nd, Th. I moved for returns of convicts in Ireland more particular and detailed than those which have been already made.

Bragge Bathurst having been appointed Chancellor of *Bristol elec-* the Duchy of Lancaster, and by that means *tion.* having vacated his seat for Bristol, Mr. Hart Davis, the Member for Colchester, has accepted the Chiltern Hundreds, that he may be a candidate. He is opposed by Hunt, who has very few of the freemen with him, but who has excited the populace to commit great excesses, by telling them that, if he is elected, he will bring about a peace, and lower the price of bread.

12th. Hunt continues to keep the poll at Bristol open. He polls very few votes, but has an opportunity, which appears to be all he wishes, of making speeches every day, and endeavouring to gain popularity. It seems, however, that he has little success with any but the very lowest orders of the people. Cobbett, in his weekly paper, espouses his cause, and represents him to be a much more fit man to represent Bristol than I am.

16th, Th. In consequence of the outrages which have lately been committed in Lancashire and a *Bill to sup-* part of Yorkshire, the Ministers have brought *press the dis-* *turbances in* *the counties of* a Bill into the House of Commons, which is *Lancaster and* founded on a Report made by a Secret Com-*York.*

mittee appointed to inquire into the evidence which Government had received on the subject. There seems little doubt that the riots and acts of violence which have been committed were caused solely by the stagnation of the manufactures, and the scarcity and consequent high price of provisions. The rioters, however, have endeavoured to possess themselves of arms, with a view undoubtedly to render themselves more formidable, and to enable them to carry on their depredations. They have

¹ Vide *suprà*, p. 233.—ED.

broken into houses and carried arms away; they have sent threatening letters to many persons, and there have been some attempts at assassination. All this is very horrible, and requires a vigorous execution of the existing laws. But there is nothing in these outrages which calls for such a law as the Ministers have proposed; a law to disarm every person from whom the magistrates shall choose to take their arms away, and to enable them to enter houses in the night to search for arms. I was not present at the second reading of the Bill; but there being to-day a committee upon it, I objected to several parts of the Bill, and endeavoured, but in vain, to mitigate some of the harsh and dangerous power which it gives to the magistrates. The Bill enables any justice, or constable having a warrant from a justice, to search for and seize any stolen or concealed or secreted arms, in any house or place in which the justice making or granting a warrant for making such search *may suspect* any stolen arms to be, or any arms to be concealed or secreted; and, in case admission shall be refused, or not obtained within a reasonable time after it shall have been demanded, to enter by force, by day *or by night*, into such house or place, and to carry away such arms. On this clause I moved to leave out the words "*may suspect*," for the purpose of inserting words which would have enabled justices to search or to grant search-warrants only when they *had reasonable grounds of suspicion*, which are the words in the Act, passed in 1807, to authorize search for arms in Ireland; and the same words are even in the Act passed by the Irish Parliament in 1796, notwithstanding all the rage and violence of party which dictated that most atrocious Act. The amendment, however, was rejected; and the justices are left at liberty to act on any suspicions they may entertain, or say they entertain, without the necessity of ever showing that there were any grounds for such suspicion. I moved, too, to leave out the words "*or by night*," so as to give this power of entering private houses only in the daytime; and on this amendment I divided the Committee, and was in a minority of only sixteen. Giles also moved, as an amendment, that the

warrant should be signed by two justices; but this amendment too was rejected.*

On the same day, after this Bill had gone through the Committee, and after midnight, the Masters in Chancery brought down from the House of Lords the Bill which Lord Redesdale, with the concurrence of the Lord Chancellor, has brought into Parliament for the appointment of a Vice-Chancellor. The effect of it is to enable the King to appoint a person, being a barrister of fifteen years' standing at the least, to be an assistant to the Lord Chancellor, and to be called Vice-Chancellor of England. His office is to be held during good behaviour; himself to have power to hear and determine all causes and matters depending in the Chancery of England, as a Court of Law or of Equity, or which should be submitted to the jurisdiction of the Lord Chancellor, by the special authority of any Act of Parliament, in such manner and under such restrictions as the Lord Chancellor should, from time to time, direct. His orders are to be subject to be reversed by the Lord Chancellor; but he is to have no authority to reverse the orders of the Lord Chancellor or of the Master of the Rolls; and he is to sit for the Lord Chancellor whenever the latter should require him so to do, and to sit in a separate court, either at the same time when the Lord Chancellor or Master of the Rolls should be sitting, or at any other time, as the Lord Chancellor should from time to time direct, and in such separate court to despatch such business only as the Lord Chancellor should from time to time direct, and in such manner and form, and subject to such restrictions and regulations, as to the Lord Chancellor should from time to time seem fit. I immediately objected to this Bill, and particularly to the time when it was brought in, quite at the close of the Session, when there were very thin attendances, and when all the lawyers were upon their circuits; and I asked if it was seriously intended to carry such a Bill through in the present Session? On being informed by Lord Cas-

* Similar amendments were afterwards moved by Lord Holland in the House of Lords, and were there rejected; and the Bill passed in the form here stated.

tlereagh that such was his intention, I entered into the objections which I had to the Bill; and I also stated, that if any measures were to be taken for relieving the office of the Lord Chancellor from some of the duties now belonging to it, there were other plans which had been proposed much less objectionable than this; such as separating the office of the Lord Chancellor from that of Speaker of the House of Lords, or taking from the Lord Chancellor the business in bankruptcy: that the principal objection to these appeared to be, that by either of them the Lord Chancellor would lose part of the present emoluments of his office; whereas, by the present scheme, part of the duties were taken from the office, but all its emoluments left. Amongst other things, I mentioned an alteration which might well be made in the Equity Court of the Exchequer, by letting causes be heard by one Judge; and a project which had lately been suggested of having an additional Baron, who should sit in the same manner as the Master of the Rolls in Chancery. I mentioned, too, the rendering the Chancellor of the Duchy of Lancaster an efficient judicial office, and assigning to it some of the present duties of the Chancellor.

Bankes, Wilberforce, and several other Members also objected to the Bill being entertained at such a period of the Session. The Bill, however, was read a first time.

The next day Lord Castlereagh said that the Bill would not be persevered in now, but would be brought in early in the next Session.

I presented a petition to the House of Commons from a man of the name of Eaton, a prisoner in Newgate, lately convicted of a profane libel, complaining of exactions of money made from him by the keeper of Newgate. I presented the petition, and merely moved that it lie on the table. I conceive it to be the duty of a Member of Parliament to present such a petition.

30th. Parliament was prorogued.

Aug. 18th, Tu. The Lord Chancellor sat in the morning for the last time before the long vacation. In the evening I left town.

Oct. 31st, Sat. The Master of the Rolls held the first seal for the Lord Chancellor.

The foregoing diary¹ shows where I have been during the long vacation. The first part of it was spent very pleasantly and very profitably, in recovering myself from the effects of a very close attendance on business, and in laying in a stock of health to enable me to encounter another winter of professional and parliamentary fatigue. But the latter part of it has been sadly broken in upon by the Bristol election, and has passed very disagreeably. My visit to Edinburgh had for its principal object to see

George Wilson. once more my excellent friend George Wilson.

At Durham, where my Chancery sittings obliged me to be, I had performed nearly two-thirds of the journey, and I could not resist the temptation of going on to see him. An attack of palsy compelled him two years ago to quit the bar and retire to Edinburgh, from whence there is no prospect that he will ever return to London. An intimate private friendship has long subsisted between us. A man of a stronger understanding, of a sounder judgment, of a warmer heart, of a nicer sense of honour, of stricter morality, or of better political principles, hardly exists; and to all these valuable qualities he adds much general knowledge and great learning in his profession. He was universally beloved and respected while he continued to attend in Westminster Hall, and was universally regretted when he quitted it. His uncommon clearness of expression, and the remarkable correctness of his understanding, qualified him in the most eminent degree to fill the office of Judge; and on that point there was but one opinion in the profession. If the office had been elective, and the Bar had been the voters, he would probably have been unanimously elected to it. But as he never paid his court to those in power, and as his political opinions, though he never obtruded them on any one, and always expressed them with moderation, were not favourable to the Ministers of the day,

¹ This and similar portions of the Diary, which consist of a mere enumeration of towns and places visited, have been omitted, as being devoid of interest.—ED.

he was passed by ; and men greatly his inferiors in every qualification of a Judge were promoted over his head. Even the silk gown, which late in life he received, he owed solely to the private friendship of Lord Ellenborough. They were certainly men very different in their natures, and opposite in their political opinions ; but yet they lived in great habits of private friendship ; and that friendship probably served, as long as Wilson was near his Lordship, to temper and restrain his Lordship's violence. Wilson had undoubtedly much influence over him ; so much that he even prevailed on his *Lord Ellenborough* once to endeavour to read Adam Smith's excellent and very celebrated work on the *Wealth of Nations*. This, however, went no farther than an endeavour ; and, after some unavailing efforts, Lord Ellenborough returned the book, with a declaration that he found it impossible to read it. I doubt very much whether any other of the Judges, with the exception of Mr. J. Heath, and, perhaps, Mr. J. Leblanc, have ever made a greater progress in the study of political economy than the Lord Chief Justice. But not to digress any longer, we found (for my dear Anne and William accompanied me)—we found Wilson rather languid, but in the full possession of his faculties ; having two charming young women, his nieces, to keep his house for him, and living in a small but very delightful literary society. Playfair, Jeffrey, Dr. Gregory, Thomson, Murray, and, occasionally, Dugald Stewart, were among the principal ornaments of it. We passed a very happy week with him. The rest of our journey proved the means of great enjoyment to us, as well on account of the beautiful scenery which it presented to us, as of the visits which, in the course of it, we paid to a great variety of persons ; amongst others, to our old friend Mrs. Gally Knight and her son, who is just returned from visiting Greece, Egypt, and Palestine ; to Sydney Smith ; to Lady Haddington ; to Lady Minto ; to my good friend George *Lord Grey*. Philips ; to Lord Grey, who to be properly known must be seen as we saw him, in his retirement, sur-

rounded by his family, his servants, and his tenants, and appearing to be an object of love and admiration to all *The Duke of Roxburgh.* who are about him; to the Duke of Roxburgh, just put into possession of his title and of his magnificent domain, but having unfortunately obtained possession of them only in the full maturity, or rather in the rapid decline, of life, and whom we found surrounded with enjoyments only when the sense of enjoyment seemed to be fast wearing out; to my old and excellent friend *Dugald Stewart.* Dugald Stewart, whom we had the satisfaction to see in the full vigour of his great talents, and in the lively enjoyment of everything about him, of the charming country in which he lives, of the society of his very sensible and amiable wife and daughter, of his books, of his leisure, of his philosophical retirement, and, above all, of the delight he experiences in the pursuit of his metaphysical researches, and in continuing and completing his own admirable writings.

During my journey I had received frequent intelligence that Parliament was to be speedily dissolved; and the information given me during the latter part of it was such as left me no doubt that that measure was resolved on. When I reached town I learnt that it was to take place in two or three days, and I found letters from Bristol exhorting me to hasten to that place. I determined, however, before I proceeded thither, to take Anne to Eastbourne, in Sussex, where our children have been from the beginning of the vacation. We accordingly went thither, and I stayed at Eastbourne Saturday and Sunday. On Monday I returned to town, and proceeded the next day to Bowood, to Lord Lansdowne's, where I passed the night; and on the following day (Sept. 30th) I set off for Bristol. I arrived there about five o'clock in the afternoon, some hours only after the *Parliament dissolved.* news of the dissolution, which had taken place the preceding evening. I found my friends sanguine, nay, certain of success. In all the different parishes committees had been formed of persons in my interest, who had canvassed all the voters; and

from the different returns made by them, it appeared that more than 3000 votes had been promised ^{Bristol elec-} me. If these promises were performed, there ^{tion.} could be no doubt of my success. It was thought expedient by my friends that I should go round to as many of the electors as the short time which would elapse before the election would admit of. I reluctantly consented to this. I consented to wait on the electors, not to ask their votes, but to thank those who had promised to vote for me, and merely to show myself to the others. In this tiresome and most fatiguing way I had to pass four days, walking about from house to house, from ten o'clock in the morning (and one day from nine) till half after four. The appearance of things, upon my making these visits to the electors, very much corresponded with what the committees had reported ; and I appeared to have a very flattering prospect before me.

It was obvious, however, that in the election I should have a difficult part to act, and that great caution on my part would be necessary. The Tories, inflamed with resentment against all popular candidates, on account of the tumults and acts of violence which only two months ago had disgraced the last election, would be very eager to seize on any unguarded expression that might escape me, to raise a cry against me with their party ; and on the other hand, Hunt, the friend of Cobbett, and a friend worthy of him (that is, a most unprincipled demagogue), would be ready to misinterpret and misrepresent whatever I might say, in order to accomplish the object of his faction, which is to destroy the characters of all public men, and to excite jealousy and distrust of them. It was obvious, too, that Protheroe and Davis might in the course of the election find it mutually their interest to unite, and by making common cause against me, to secure their own election. The election was fixed for Tuesday, 6th of October. On that day, the Mayor, Mr. Castle, proposed me, and Sir Abraham Elton, a baronet, and a clergyman of the Church of England, whose ancestors had in several instances represented Bristol in Parliament, seconded the nomination. They did this, as is usual upon such

occasions, in speeches in which they spoke of me in terms which were much too flattering. I then addressed the electors in a speech which was published in the newspapers with tolerable accuracy.*

* The following is the speech alluded to :—

“ Gentlemen,—I appear before you to offer you my services as one of your representatives in Parliament. If you should repose that important trust in me, I shall consider it as the highest honour that could be conferred on me, and as the best reward I could receive for my past endeavours to serve the public. It is not, however, merely as an honour and a reward that a seat in Parliament ought to be considered, but as an office of great difficulty and fatigue, of deep responsibility, and one which no person in my situation can properly and honestly fill without making many and almost constant sacrifices of his time, his ease, and his comforts, perhaps of his health, and certainly of his emoluments. These sacrifices I am willing, nay I am anxious to make in your service, and I shall be proud of having those duties imposed upon me. If, however, you shall, in the contest which is about to take place, decide against me, I shall submit to your decision with perfect cheerfulness ; and if I am to retire into private life, I shall, while I am enjoying those domestic comforts which I have the happiness to possess in as large a portion as falls to the lot of most men, and while I am devoting my time to the occupations of a lucrative profession, have the satisfaction to reflect, that my doing so proceeds from no mean or selfish motive of preferring my own private advantage to the public good, but from my fellow-citizens having rejected the services which I had tendered them.

“ It has been usual for persons who stand in the situation of candidates to make professions of their political opinions, and to give promises of their future conduct ; and this is undoubtedly proper in those who have not yet been tried, and who have no past conduct to refer to ; because with such persons what is it you can have to trust to but the professions which they make, and their private characters, which afford you security for the sincerity of those professions ? But with those whose public life is already before you, such professions and promises can be of little avail ; for either they are consistent with what they have already done, and then they are unnecessary, or at variance with it, and in that case they are entitled to no credit. I shall therefore, on this occasion, neither promise nor profess, nor shall I presume to remind you of what I have attempted to do ; but I may with propriety tell you what are the qualifications which, in my opinion, you ought, at the present crisis, to look for in a representative.

“ He ought to be a man firmly attached to those principles of our Constitution which were established at the Revolution, and which have seated and maintained the present Royal Family on the throne.

Hunt, who a few days ago had published hand-bills as hostile to me as to any other of the candidates, or, indeed, rather more so, now entirely altered his tone ; and, being

He should justly appreciate, and be ready at all times to maintain, the liberty of the press and the trial by jury, which are the great securities for all our other liberties. He should be a sincere friend to peace, and anxious to seize on every opportunity of securing all the blessings which it must bring with it, whenever there is a prospect that it can be permanently obtained. He ought to be determined, whenever the men with whose political principles he in general agrees, and with whom he therefore generally acts, propose or support measures which in his conscience he disapproves, to oppose them just as if they were the measures of his political adversaries. He should be an enemy to that influence of the Crown and of the Ministers of the Crown which has been so fatally exercised in the House of Commons, and consequently a friend to parliamentary reform. He should be a constant advocate for economy in the public expenditure, and a determined enemy to corruption and peculation ; and if he thinks he discovers them in persons of the highest rank, he should not be deterred from censuring and arraigning them, by any apprehension that by so doing he may incur their high displeasure, and blast for ever all the prospects of honourable ambition in which he may at some time have indulged. He should be ready, when he sees evils arising from any of our present institutions, to inquire into the causes of them, and to suggest a remedy, notwithstanding the reproach of being an innovator, which he may incur from those who have an interest in perpetuating abuses ; and, above all, he should be a man incapable of being swerved from his duty by the threats of power, the allurements of the great, the temptations of private interest, or even the seduction of popular favour ; and who should constantly recollect, that all the toil, the pain, and the fatigue of his office, must be his own ; and all the advantages which are to result from his labours must be for the public. These are the qualifications which, in my opinion, you ought to look for in your representatives. Perhaps it is not prudent in me to state them. Perhaps in this enumeration I have been pronouncing my own condemnation ; and in pointing out to you what is requisite in a Member of Parliament, I have only been reminding you of what is wanting in myself. Of this you are the judges ; but whatever be the consequence, I shall rejoice in what I have done ; for this I can with perfect sincerity declare, that I may be elected by you is only the second wish of my heart. The first is, that Bristol and other places of popular election may send to Parliament able, honest, disinterested, and patriotic members.

“ Gentlemen, amongst the qualifications which are, in my opinion, requisite in a Member of Parliament, I have not said that he should be determined, under no circumstances, to accept an office under the Crown. I have not said so, because that is so far from being

undoubtedly desirous to avail himself of some of that popularity which he saw me possessed of, spoke of me in terms of high approbation, and made no other objections to me than that I was King's Counsel, and that I had avowed that I was not unwilling to accept an office under the Crown. The hall was full of my friends, and the

my opinion, that I think there are circumstances in which it may be his duty to accept of such an office. I should be sorry to be misunderstood by you upon this subject, and I am glad of this opportunity of avowing what my opinion upon it is; and, indeed, in appealing to my past conduct, I have told you that was my opinion, since I formerly myself held an office under the Crown. If a man barters his principles for office, if in office he acts upon different grounds from those which he professed to act upon before he obtained it, and if his official conduct is a constant violation of those rules which he had, when in opposition, prescribed for others, there are no terms which, in my opinion, are too strong or too severe to stigmatise such political apostacy; but if in office his views and his principles are the same as when he was in a private station, he deserves, in my opinion, no reproach for accepting it; and if it be, as I conceive it is, the duty of every man to use all the means which he possesses of being useful to his fellow-citizens and his fellow-creatures, and if, by accepting office, he may become eminently useful to them, it is his duty to accept it. In enumerating what is in my opinion requisite in a Member of Parliament, I have omitted to say that he ought to be a friend to toleration, and an advocate for religious liberty to persons of all persuasions, but more especially to all descriptions of Christians, and that he ought to be a zealous supporter of that which I think truly called Catholic emancipation,^a as being of vital importance to the security and happiness of this country, and which consists only in removing disabilities and disqualifications to which the great majority of the people of Ireland are subject, only for professing and adhering to that religion in which they sincerely believe, and in which they have been brought up by their fathers.

" After saying so much of the duties of a Member of Parliament, permit me to remind you of the importance of that duty which you are now to discharge. One more important never can devolve upon you. On the Parliament which is about to be elected will depend everything that is dear to you and to your posterity; the happiness, the prosperity, the safety, perhaps the existence, of this country. You are to exercise an important trust, not for yourselves only, but for that large description of your fellow-subjects who, in the present state of the representation, have no voice upon these occasions."

^a This alludes to a declaration just before made by Mr. Davis, that, in his opinion, this was falsely called Catholic emancipation.

show of hands was greatly in favour of me and of Hunt. A poll was demanded, but the day had been spent in speeches, and three or four votes only were taken. The next day the hall was again crowded with my friends, and, in consequence of this, the partisans and agents of Protheroe and Davis determined to prevent as much as possible any votes being taken. They disputed about the mode of polling, although that had been already settled. They proposed that the candidates should poll by tallies, which would have been extremely advantageous to them, as it was probable they would each poll double votes while I polled only single ones; and this of course was not acceded to by me. They still, however, insisted upon it, and made long speeches on the subject. They then objected to every vote; and, as there was only one polling-place, this manœuvre was very successful, and at the close of the day the numbers were for me only twenty-eight, for Davis only eighteen, for Protheroe only sixteen. After two days of unavailing attendance and the useless sacrifice of so much time, my friends could not be prevailed on to attend again, till there should be a certainty that their votes would be received. On the third day, therefore, on which four places were established in the hall for taking the votes, Protheroe got sixty a-head of me. This advantage gave effect to the coalition which had been projected between Davis and Protheroe; and from the moment of that coalition being openly formed, it was evident that I could not be successful.

Davis pretended to be no party to such a coalition, and perhaps he was at first a stranger to it, but his friends entered warmly into it; and as to Protheroe, he so avowedly entered into it that his committee, as Davis himself informed me, gave Davis's cockades to Protheroe's voters, and they all crowded to the hustings with an ostentatious display of these united colours.

On the seventh day of the poll it had become quite clear that I could not succeed, unless the voters resident in London were brought to Bristol; and though they were very numerous, it was very doubtful whether even they could insure my success. The expense of bringing them

*Coalition of
Davis and
Protheroe.*

would be much greater than the subscription that had been entered into could defray, and I therefore determined *I gave up the* on the next day formally to give up the contest. I did so in a speech in which I design- edly avoided taking any notice of the many very mean election tricks which had been practised against me by the supporters of Mr. Protheroe. I contented myself with merely stating my reasons for retiring. I returned thanks to the different descriptions of electors who had supported me, and expressed the good will I felt towards the city. A tolerably correct statement of the topics on which I touched was given, though very shortly, in the newspapers.*

* The speech mentioned above was given in the newspapers as follows:—

“ Sir Samuel Romilly said, that as long as there remained any prospect of success, however faint it might be, he had thought it a duty which he owed to the gentlemen at whose invitation he had offered himself as a candidate, and to those who had given him their zealous support, to persevere in the contest; but that, upon consider- ing the state of yesterday's poll, and making the most accurate and anxious inquiries respecting the electors who had not yet voted, he was sensible that he had now no hope whatever of success; and that though the out-voters might undoubtedly greatly diminish the ma- jority against him, there was no chance of their overcoming it; and he therefore thought it right to declare that he did not wish any further exertions to be made in his favour. That he had once in- tended to persevere in the contest as long as any of the voters would honour him so far as to add their names to the long list of those who had declared in his favour; but upon reflection he thought he should not be justified in doing so, since it would only be to gain honour for himself at the expense of trouble and inconvenience, and perhaps most serious loss, to the families of those who were desirous to serve him. That as far as he was concerned, therefore, he considered the election at an end, and that he retired from the contest defeated, but not humiliated—disappointed, but in no degree mortified—with gratitude to thousands of the inhabitants who had shown their warm attachment to him, and without resentment to a single individual. That he was far from questioning that the gentlemen who were likely to be returned would discharge the duties of a Member of Parliament with much more ability than he could, but he would not admit that they would discharge them more zealously or more honestly than he should have done.

“ That it was now, perhaps, of little consequence to the electors of Bristol what his political opinions were, but yet he could not refrain

There was certainly nothing in this speech at all calculated to excite the passions, and I know not to what cause is to be ascribed the effect which it produced ; but

from making a single observation upon doctrines which he had heard advanced within the last four and twenty hours in that hall, as those which recommended a candidate to the electors. If they really were approved by them, it was fortunate that he was not to be their Member ; because in that case the opinions of the electors and their representative would be completely at variance with each other. It might indeed happen, and often did happen, in cases of contested elections, that the two successful candidates were of directly opposite political principles ; but that such candidates should be chosen for that very reason, and by a regular *system*, such as it had been said had long prevailed, and ought to continue to prevail, at Bristol, was a doctrine to which he never could subscribe. It was one by which, upon all great and momentous questions, such as peace and war—an inquiry into the conduct of Ministers—an investigation into political abuses—parliamentary reform—or any important alteration in the Constitution, this great city was at once to say Yes and No : the voice of one of its Members was always to control the other :—it was to avoid doing wrong, by taking care never to do what was right ; and was, in effect, to strike Bristol altogether out of the popular representation. In a system so absurd as this he never could concur : he should dwell, however, no longer on it, for the reason he had already given.

“ Though he was unsuccessful in the contest, he was proud of the support which he had received, and he considered it as a most distinguished honour that at that moment he had more than 700 single votes. He had to return his most grateful thanks to those who had voted for him ; he had to thank the numerous freemen who had assured him that he had their best wishes and their hearts, though their votes *must* be given against him ; he had to thank those, too, who had told him that he should have not their wishes only but their votes, but who had afterwards found it impossible, without ruin to themselves, to perform the promise they had given ; he had to thank those various sects and denominations of Christians who had united in his support ; he had to thank those numerous Friends whose quiet habit of life, and whose love of peace and tranquillity, made them averse to mingle in the bustling and tumultuous scenes which contested elections generally present, but who had nevertheless submitted to the pressure and noise and uproar of the crowded hall, to give a public testimony of their honourable and valuable approbation of his conduct ; he had to thank the city of Bristol for the warm and generous manner in which it had declared itself in his favour. Though he should not have the honour of representing Bristol in Parliament, he should always have in grateful remembrance the kindness and attachment which had been shown him. He should always take the deepest interest in its success ; that it might always

it is certain, that before I got to the conclusion, I saw the tears streaming down the cheeks of many of my hearers. From the Guildhall I retired, as usual, to the Bush Tavern, and there in a very few words addressed the electors. I then returned thanks to my committee, and immediately proceeded to the Mayor's house in his carriage, which was waiting for me. The people pressed round me to shake hands with me, and to take leave of me. They took the

flourish, that it might increase in prosperity, in public spirit, in virtue, and in happiness, would be his fervent prayer ; he would lose no opportunity that might present itself of serving them ; and though before the election, and while he was a candidate, he had made no promises, now that the election might be considered as at an end, and that nothing could be gained by his promises, he assured them that he should be always anxious to promote their interests and to advance their prosperity.

“ There was one topic more to which, before he concluded, he wished to advert. The election had hitherto been conducted with uncommon order, regularity, and tranquillity ; and notwithstanding the noise and the shouts, which were unavoidable on such occasions, he could say that Bristol had set a most laudable example to other places ; and he doubted whether at this, or at the last general election, there had been in any large and populous town any contested election carried on with more tranquillity than this. He hoped that they would persevere in the same line of conduct to the end. He would say more than that he hoped, he earnestly entreated, them to persevere.

“ If he had gained (and what had passed proved that he had) any place in their affections, he most earnestly entreated them to consider what might be the consequence to themselves of disturbance and tumult. It is true, that tumults were often provoked by the conduct of the opposite party ; but they should be more cautious not to yield to such provocations, or to take upon themselves to be the avengers of their own wrongs. It was persons in the humble ranks of life who were in truth always the greater sufferers by tumult. The injury done to the property of the wealthy was a small calamity compared with what was endured by the imprisonment of men who had their wives and their children depending upon them for support, and who drew down such calamities on themselves by their intemperate zeal. Riot and popular outrages had often been the cause, but much oftener the pretext, for invading the liberties of the people ; and in every light it was the persons who themselves were the authors of such violations of the peace, who were the greatest sufferers by them. He concluded by again expressing the warm sentiments of gratitude and attachment with which he took leave of the city.”

horses from the carriage, and drew me home ; and again as I came out of the carriage a hundred hands were held out to be pressed in mine, and the eyes of many were suffused with tears. I am aware, while I am writing this, of the ridicule which it may provoke ; but yet it really contains nothing more than a plain and unexaggerated statement of the fact.

My giving up the contest was made matter of some reproach to me by Hunt, who reminded the electors that I had in the course of the election pledged myself, as he was pleased to express it, that I would stand the poll as long as any freeman would be found to vote for me. He did not, however, he said, complain of my conduct in this respect. I had spoken undoubtedly figuratively ; but for himself, he desired to be understood in a strictly literal sense, when he assured them, as he then did, that he should continue the poll as long as it could possibly be kept open. It is proper to observe on the subject of this reproach, that I certainly never gave any such pledge as Hunt mentioned. I did say once during the election, at the Bush Tavern, that it was my intention to continue the poll, even after a majority of the electors might have voted against me, if it were only that I might have the satisfaction of seeing the names of those electors who were disposed to vote for me added to the long and honourable list of those who had declared in my favour. There was no resemblance in this to a pledge. I entered into no engagement with the electors, and it was not for their sakes, but as a matter of personal gratification to myself, that I had professed an intention to keep the poll open. With all this, however, I was wrong ; not for giving up the poll, but for ever saying that I would not give it up as soon as I was satisfied that I could not gain my election. I was provoked to make the declaration by the arts which had been practised and successfully practised against me by my opponents, who had circulated reports that I had determined to relinquish the contest as soon as there was a small majority against me, and had descended to very mean artifices to give credit to these reports, such as taking a place in my name in the London mail coach, and paying for it. Still

I ought not to have suffered myself to be provoked to make such a declaration ; nor should I, if I had at the moment recollected that it was not at my own expense, but at that of others, that the contest was carried on ; and that it would be unpardonable in me to prolong that expense one moment after it had become apparent that the object of it could not be accomplished.

On the day on which I gave up the contest, I remained at Bristol to dine with some gentlemen whom the Mayor had invited to meet me ; and the next morning I left the city, and proceeded straight to Eastbourne.

I left Bristol. As soon as I arrived there, I wrote a letter to the Mayor, to thank him for all the civilities I had received from him ; and as in that letter I stated very truly what I felt respecting the election, it may be worth while to preserve a copy of it. It was in these words :—

“ My dear Sir,

“ Eastbourne, Oct. 18, 1812.

“ From your friendship and kindness to me, you will, I am sure, be glad to learn that I have found here Lady Romilly and all my children in perfect health, and that I am at this moment surrounded by countenances as happy and as much delighted as they could have been if I had returned covered with the laurels of Bristol. Lady Romilly desires me to return Mrs. Castle and you her best thanks for the excellent care you have taken of me, and which has enabled me to return in much better health and spirits than she expected, after the fatigues which she supposes I must have undergone. I deeply regret the event of the election on many accounts ; but I do assure you that they are all of a public nature. There are, on the other hand, many reasons why I should rejoice in my defeat, but these are all personal to myself. I would not allow them to occupy my mind while the contest was doubtful ; but now that it is over, they certainly afford me much consolation. Even those at Bristol who might be least disposed to listen with favour to what I said, if they saw the enjoyments which my family affords me, and if they knew how sensible I am that, at my time of life, there cannot be reserved for me a great many years of such

enjoyments in health, and in the full possession of my faculties, without which nothing can be enjoyed, would, I am sure, be convinced of the truth of my assertion, that a person in my situation could not properly discharge the duties of a representative of your city without making great and severe sacrifices. If I had supposed that Mr. Protheroe's merits had procured him his majority of votes, it would have given me no concern, because he had a very great advantage over me in the different modes in which our respective merits were to be estimated. To promises and professions which open an unbounded field to the hopes, and expectations, and imagination of partial friends, I had nothing to oppose but dry and simple facts. That, when so compared together, he should be greatly preferred, could not be to me a painful consideration. To be found unfaithful to one's own professions would, indeed, be a just cause of shame; but I should not have blushed at the conviction that Mr. Protheroe had promised better than I had performed. The truth, however, is (as you well know), that the merits of the candidates had less influence on the decision of the election than the colour of a riband. No person could have observed with what zeal determined Tories espoused the cause of a Whig in profession, and how keenly professed Whigs supported, and how ostentatiously they displayed the cockades of a tried and acknowledged Tory, without being satisfied that political principles and national interests were not uppermost in the thoughts of the majority who decided the election. If, however, it were by such a coalition only that success was to be obtained, I am not only contented, but I rejoice that I was not successful. I have thanked the gentlemen, who formed themselves into committees to conduct my election, again and again; but when I recollect to what inconvenience they put themselves, and at what an expense of their ease and their valuable time they endeavoured to promote my success, I feel as if I had not thanked them sufficiently; and you would add to the many obligations you have already conferred upon me, you would take an opportunity, when you meet with any of them, to thank them again in my name, and particularly to say that I have been most highly gratified by my friends

having shunned the means which insured success to my opponents. It would, indeed, have been extremely painful to me to have owed my election to the support of those who had been, at the same time, desirous of being represented in Parliament by a gentleman who, however high may be the claims which his private virtues may give him to the approbation of his fellow-citizens, entertains such different opinions on public affairs from myself, that I do not recollect that, since the dismissal of the Whig administration in 1807, we have ever been found in any one division voting on the same side. There is one thing, however, which I own gives me much concern ; it is, that the public should be so ill informed of the history of the late election, as they are likely to be from only a few paragraphs, and those very incorrect ones, in two or three newspapers. I have a very strong interest, and so have the honourable and public-spirited men who supported me, that the real facts should be accurately known. So much honour, indeed, do they reflect on us, that, if it were not for the trouble and anxiety which I have caused my kind friends, and the other sacrifices which they have made (and to which I was always most averse), I should at this moment greatly rejoice that I had been a candidate, though an unsuccessful one. But for that occurrence, I should have remained ignorant of the esteem in which I am held by your fellow-citizens, which has been to me a source of greater and purer satisfaction than could have been the highest dignity which the Crown has to bestow."

The letter then concluded with some expressions of gratitude to some of Mr. Castle's relations, who had been particularly kind to me.

It has been observed that any person who wishes to hear what harm can be said of him, has only to declare himself a candidate at some popular election. With me the reverse of this observation has been the case ; and I seem to have been a candidate only to hear the good which, on no other occasion, could any persons have ventured to say of me.

Even my opponents have, during the whole of the contest, spoken well of me. The moment, however, it was over, Mr. Davis, in an address to his constituents, in order to make a merit with the Davis's address to the electors.

Ministers, and to magnify his own services in keeping me out of Parliament, represented me as a person who entertained very dangerous designs against the Constitution. I felt some indignation at reading this address, and thought at first of replying to it in an address to the electors, but on reflection I thought it better not to keep up My observations on it. the contest. I could not, however, resist the temptation of making some observations on this address, which I sent anonymously to the editor of the *Bristol Gazette*, and they were by him published.

The address and observations will be found at the end of the volume.¹

¹ We have inserted them in the following note.—ED.

MR. DAVIS'S ADDRESS.

“To the Gentlemen, Clergy, Freeholders, and Freemen of the City of Bristol.

“ Gentlemen,

“ The result of the contest in which we have been engaged has proved, I trust, as well to the empire at large as to the electors of Bristol, that the glorious Constitution of our country may yet be supported unimpaired against the open as well as the insidious attacks of those who desire to subvert it.

“ That I have been selected as the means by which, as your representative, that Constitution may still in all its branches be maintained and preserved inviolate, is, to my personal feelings, a gratification which I alone can duly appreciate.

“ Practically acquainted, as I may safely assume I am, with the commercial interests of this the second city of the empire, I am sure that, although I may not contest the palm of eloquence with one of my late opponents, I shall not, on that account, be deemed the less capable of attending to your local interests; nor, however less versed I may be in the legal knowledge of our Constitution, be considered the less able to judge of and to oppose any *inroads* which may be attempted to be made, either on the just prerogatives of the Crown, or on the rights and liberties of the nobles or the people.

“ I am neither ashamed nor afraid to acknowledge that the support of the reformed Protestant religion, as established by law, has and ever will continue to be the foremost object of my life: but my constituents of other persuasions will not, I trust, imagine that I am

Nov. 23d, Mon. I had occasion to-day to see Mr. Justice Chambre on the subject of a petition which was transmitted to me some time ago to present to the Regent, on behalf

precluded by this avowal from using every means in my power to preserve unimpaired their religious liberties.

“Although I have hitherto supported, and shall not by any means be deterred from continuing to support, the unavoidable war in which the nation is engaged, I cannot but anticipate with the highest satisfaction the period, which I doubt not will arrive, when an honourable and advantageous peace may be concluded, founded on the conviction of our common enemy, that all his efforts for the subjugation of this country and of Europe are fruitless and unavailing.

“Allow me, Gentlemen, in conclusion, to repeat to you my warmest thanks for the honour you have conferred on me, and to assure you, that however great may be the responsibility which your representation incurs, I shall on no occasion shrink from a faithful and zealous performance of the duties which that situation demands.

“I have the honour to be, with unbounded sentiments of gratitude and respect, your obliged and obedient servant,

“RICHARD HART DAVIS.

“Mortimer House, Oct. 16th, 1812,
Friday Evening.”

“To the Editor of the *Bristol Gazette*.

“Sir,

“After the poll at the late election was closed, and two days after Sir Samuel Romilly had left Bristol, Mr. Davis thought proper to publish an address to the electors, in which he is pleased to say that the result of ‘the contest had proved to the whole empire that the glorious Constitution of this country might yet be supported unimpaired against the open as well as the insidious attacks of those who desired to subvert it; and that it was a high gratification to him that he had been selected as the means by which the Constitution might still in all its branches be preserved inviolate.’ The meaning of this cannot be misunderstood: the election being over, Mr. Davis, who, as long as the contest was depending, spoke of Sir Samuel Romilly only to compliment him, is impatient to recommend himself to those who are in power by claiming to himself the extraordinary merit of having saved the Constitution from some imminent danger with which it was threatened by the prospect of that gentleman’s election. The event, it seems, has proved that the Constitution *might still* be preserved—that there was a possibility, just a possibility, of its preservation; and that he, Mr. Davis, had been selected (by Providence we must presume, though he has so carelessly expressed himself that the White Lion Club might be

of a man convicted of felony at the Somerset Lent assizes before that Judge. The man's sentence had been that of transportation, but he is at present confined on board the hulks. In the course of our conversation, Mr. Justice

understood) as the instrument by which so great a good might be accomplished.

"This is the compliment which this courteous gentleman thinks it decent to pay at the very moment of his election to a very large body of his constituents—no less than 1685—who must have been parties to this insidious attempt to subvert the Constitution, if any such were really made. His constituents will probably hardly think it worth while to ask Mr. Davis what act or what expression of Sir Samuel Romilly's, in the whole course of his public life, could justify such an insinuation, and it is not likely that Sir Samuel Romilly should himself condescend to put such a question to him; but if Sir Samuel Romilly were a man of the worst principles of any in the kingdom, how comes Mr. Davis to arrogate to himself the merit of having excluded him from Parliament, since the contest lay entirely between Sir Samuel and Mr. Protheroe? It must surely be that gentleman, and not Mr. Davis, who can with most truth assert that he has rendered that important service to the State. So neglectful were Mr. Davis and his White Lion Club of the interests of the State, that they set up only one candidate; and though the House of Davis could, it seems, supply two instruments for working so great a good, one of them was sent to a distance to obtain a seat at Colchester, and, as far as he was concerned, Bristol was left entirely open to the enemy. Or does Mr. Davis by this address mean to avow, what during the election he often and solemnly denied, that the influence of himself and his friends has returned both the Members, and that Mr. Protheroe, as well as Mr. Davis, is of the nomination of the White Lion Club? Mr. Protheroe, indeed, could never, on any general ground, lay claim to much merit for having kept Sir Samuel Romilly out of Parliament, since he professes to entertain opinions quite as popular as Sir Samuel Romilly; nay, indeed, to go much farther, and to adopt the favourite doctrines of Mr. Cobbett and his friends, that a candidate for popular representation should make a solemn declaration that he will never, under any circumstances, accept any place under the Crown; and, in truth, as soon as the election was over, though never till then, he obtained, according to the newspapers, the flattering testimony of Mr. Hunt in favour of his political principles, which that gentleman pronounced to be much better than Sir Samuel Romilly's. It is certainly a circumstance not a little gratifying to the friends of Sir Samuel Romilly that that gentleman's political principles were in one and the same day strongly censured by Mr. Davis and Mr. Hunt."

Practice of some Judges with respect to transporting felons. Chambre told me that the Judges frequently sentenced a man to a longer transportation than they otherwise would do, or than they think the crime deserves, in order to secure his being transported, it being very usual, where a prisoner is sentenced only to seven years' transportation, not to transport him at all,* but to keep him for the whole term on board the hulks. Lord Kenyon, he said, almost always acted on this principle; and whenever he sentenced a man to be transported, made the sentence for life, or for the longest term allowed by law. If I were merely to state in the House of Commons that Judges might perhaps sometimes act upon such a principle as this, what an outcry would there not be raised against me! Lord Ellenborough would not fail to take notice of it in the House of Lords, on the first occasion that presented itself, and he would find no terms too strong to censure what he would treat as a gross libel on the administration of justice.

The Duke of Norfolk offers me a seat in Parliament. Before the Bristol election, the Duke of Norfolk offered, in case I should be unsuccessful at that place, to bring me into Parliament without any other expense than just that of a dinner to the electors, which was always usual. He said that he would either have me returned at the general election, or, if I thought that my being already elected would operate at all to my prejudice at Bristol, he would reserve a seat for me till the contest there should be over. He told me that it was to be fully understood that I was to vote, when in Parliament, just as I should think proper; and that, if I accepted his offer, he should consider it as an obligation conferred on him. This very kind and liberal offer I accepted; and Mr. Henry Howard, the Duke's relation,

* In April, 1813, I happened to meet Mr. Justice Bailey, who had just returned from the Oxford circuit. We had some conversation about the increase of offences, which he represented to be very great. He said that he ascribed it in some degree to the hulks, which made the prisoners confined in them much worse than it found them; and he said, "If we sentence a man to transportation for only seven years, he is almost sure not to be transported, but to be sent on board the hulks."

who was elected to represent Gloucester, was also returned for Arundel, with an intention that he should elect to sit for Gloucester, and leave Arundel open for me.

I had formerly determined never to come into Parliament but by a popular election, or upon the purchase by myself of a seat from the proprietor of some borough, and I refused an offer which the late Marquis of Lansdowne made me, to come in for Calne, a great many years ago; and more recently (in 1805) I declined accepting a seat which the Prince of Wales had procured for me.¹

The alteration, however, which has taken place in the law, and the change in my own situation, have made that quite unobjectionable to which there appeared to me formerly to be the strongest objection. Since Curwen's Bill has declared illegal the purchase of seats in the manner which was formerly practised, there is no choice for a person like myself but to come into Parliament on such an offer as is now made me, or to decline Parliament altogether, and I cannot think that it is my duty to decline it. The objection to coming into Parliament upon the nomination of some nobleman or other great landed proprietor is, that you come in shackled with his political opinions and subservient to his will; but, after the part that I have already acted in Parliament,² no doubt can be entertained that the Duke of Norfolk is quite sincere in telling me that I shall be quite independent of him; and no person will, I believe, suspect me of intending to speak and vote on any question merely as the Duke may wish, and not according to my own judgment and conscience.

[24th.] The new Parliament met.

Parliament met.

30th, *Mon.* The Regent went to the House of ^{met.} Lords, and opened the Session. In his way to the House and back again, he was received with a dead and most humiliating silence; no marks of disapprobation, but no applause. The Princess Charlotte, who was present as a spectator of the ceremony, was recognised by the people on her return, and was greeted with loud and repeated huzzas.

¹ See vol. i. p. 433.—ED.

² See vol. i. p. 443. l. 16.—ED.

Dec. 1st, Tu. Lord Redesdale brought into the House of Lords a Bill for creating a Vice-Chancellor.

Bill for creating a Vice-Chancellor of England. I supposed that it was the intention of Ministers to carry this Bill through Parliament before the Christmas recess, and, consequently,

before I should be in Parliament. As the only way, therefore, in which I could give any opposition to it, I printed a very short statement against it, and published it in a pamphlet, under the title of "*Objections to the Project of creating a Vice-Chancellor of England.*"¹ I did not put my name to this publication, but I avowed it, and sent copies of it myself to the Chancellor and to Lord Redesdale. It seems, however, that in consequence of some opposition given to the Bill by Lord Holland, it is not to pass through the House of Commons till after the holidays. In my pamphlet I have confined my objections to the effect which will be produced on the law and practice of the Court of Chancery by this projected alteration in its constitution.

19th, Sat. I set out for Arundel in the afternoon, and got late at night to Petworth.

20th, Sun. Arrived at Arundel.

Election at Arundel. *21st, Mon.* I was elected without opposition. An opposition, however, was threatened up to the moment of the election taking place. None that would have been made could have been effectual. The right of election is in the inhabitants paying scot and lot; and of 310, the whole number of electors, 195 were decided supporters of any candidate the Duke of Norfolk might recommend. After the election, about fifty of the principal inhabitants and electors dined with the Duke at the Castle. Healths were drunk, and speeches made, as is usual upon such occasions; and the Duke, in the course of one of his speeches, said that he had introduced me at Arundel, not from any private friendship he entertained for me, for he knew me but little in private, and, till the last autumn, when I passed two days at Arundel, we had

¹ The substance of these objections will be found at p. 207 *et seq.* of this volume.—ED.

never both slept at the same time under the same roof, but because he approved my political principles and my public conduct ; and that all that he had required of me, when he had proposed to introduce me to his friends at Arundel, was, that I should do him the favour of dining with him once a year.

The Duke's convivial talents are universally acknowledged by all who know him. It is a great mis-
Duke of Norfolk.
fortune that he possesses them, as they probably have prevented his exerting talents of a much higher order with which he certainly is endowed, and which, joined to his high rank and eminent station in society, ought to have made him act a very great part in the eventful times in which he has lived. He has an excellent understanding, improved by a great deal of reading. He seems to possess a very intimate and perfect knowledge of our history and constitution. His language is correct and forcible, and remarkably perspicuous ; and he has a very happy facility of applying the various knowledge he possesses. I know few persons whose conversation is more entertaining and instructive. His political principles are very good, and he has constantly and firmly adhered to them through life, though at the expense of being always in disfavour with the Court. The Prince warmly cultivated his friendship while his father reigned ; but since he has himself assumed the Regency, and laid aside the Whig principles he once professed, he has slighted and shunned the Duke, as well as all the rest of his early friends. What reason is there not to deplore the habits of dissipation which the Duke in his youth acquired, and which he has never since endeavoured, or at least never been able, to shake off !

[The following prayer is written on the last page of the second MS. volume of this Diary : we have inserted it at the end of the year in which it is dated.—ED.]

1812.

ALMIGHTY GOD ! Creator of all things ! the source of all wisdom, and goodness, and virtue, and happiness ! I bow down before thee—not to offer up prayers, for I dare not

presume to think or hope that thy most just, unerring, and supreme will can be in any degree influenced by any supplications of mine—nor to pour forth praises and adorations, for I feel that I am unworthy to offer them, but, in all humility, and with a deep sense of my own insignificance, to express the thanks of a contented and happy being for the innumerable benefits which he enjoys. I cannot reflect that I am a human being, living in civilised society, born the member of a free state, the son of virtuous and tender parents, blessed with an ample fortune, endowed with faculties which have enabled me to acquire that fortune myself, enjoying a fair reputation, beloved by my relations, esteemed by my friends, thought well of by most of my countrymen to whom my name is known, united to a kind, virtuous, enlightened, and most affectionate wife, the father of seven children all in perfect health, and all giving, by the goodness of their dispositions, a promise of future excellence, and though myself far advanced in life, yet still possessed of health and strength which seem to afford me the prospect of future years of enjoyment,—I cannot reflect on all these things and not express my gratitude to thee, O God ! from whom all this good has flowed. I am sincerely grateful for all this happiness. I am sincerely grateful for the happiness of all those who are most dear to me, of my beloved wife, of my sweet children, of my relations, and of my friends.

I prostrate myself, O Almighty and Omniscient God, before thee. In endeavouring to contemplate thy divine attributes, I seek to elevate my soul towards thee ; I seek to improve and ennable my faculties, and to strengthen and quicken my ardour for the public good ; and I appear to myself to rise above my earthly existence, while I am indulging the hope that I may at some time prove an humble instrument in the divine work of enlarging the sphere of human happiness.

1813.

Jan. 7th, Th. I returned to town from Tanhurst, a house most delightfully situated upon Leith Hill, in *Tanhurst.* Surrey, which I have very lately taken as a yearly tenant. I have been passing ten days there with my family, and should have prolonged my stay for a few days more, if the sitting of the Privy Council to-morrow on plantation appeals had not compelled me to return.

The day to which the House of Commons is adjourned is now fast approaching. I think of taking my seat immediately on its meeting, and of bringing in without delay the Bills which I have in contemplation for making some alterations in the criminal law, and a Bill for subjecting the freehold estates of persons who die indebted to the payment of their simple contract debts. Ever since I was turned out of the office of Solicitor-General in 1807, I have been somewhat backward in proposing alterations in the law, because I have always supposed it possible that I might again be in office; and changes proposed by a person who has the support of Government, or at least has not their opposition to encounter, are so much more likely to be adopted than those which come from another quarter, that I have reserved myself for that favourable season. There seems, however, now to be no prospect that the time will ever come when I or my friends shall be in power; and the only task that is likely ever to be allotted me is, to propose useful measures with little hope of being able to carry them. Some good, however, may be done even by such unsuccessful attempts, and I shall therefore persevere in them.

15th. Lord Redesdale has published an answer to my pamphlet on the appointment of a Vice-Chancellor, which he has entitled "*Observations occasioned by a Pamphlet entitled 'Objections to the Project of creating a Vice-Chancellor of England.'*" It appears to me to be very feeble and very unsatisfactory.

Feb. 1st, Mon. I have written and printed an answer to Lord Redesdale, under the title of "*A Letter to a Noble Lord, by the Author of 'Objections to the Project, &c.'*"

2nd, Tu. The House of Commons met after the adjournment for the Christmas recess, and I took my seat.

8th, Mon. I moved for returns of convicts.

11th, Th. The second reading of the Vice-Chancellor's Bill was carried by a majority of 79; 201 for it, 122 against it. I spoke very shortly upon it, having risen late in the debate.

15th, Mon. A debate on receiving a report of the Vice-Chancellor's Bill, in which I took some part.

17th, Wed. In the House of Commons, I moved for leave to bring in a Bill to repeal so much of the *Criminal Law*. the Act of King William as punishes with death the offence of stealing privately in a shop, warehouse, or stable, goods of the value of five shillings;¹ and also for leave to bring in a Bill to alter the punishment of high treason; and another Bill to take away corruption of blood, as a consequence of attainder of treason or felony. I omitted the Bills formerly brought in to take away capital punishments in the cases of stealing in dwelling-houses and on board vessels, because those Bills had excited much more opposition than that relating to shops; and some persons had even said that they would have voted for the latter if it had not been accompanied by the two former.

Cruel sentence in high treason. The alteration I proposed to make in the punishment of high treason was, to omit the embowelling and quartering. I observed upon this horrible punishment, that it was that with respect to which the judges had no discretion. In the case of Captain Walcot, who was concerned in the Rye-House plot, after his execution his heir brought a writ of error, and the judgment was reversed by the King's Bench, which reversal was affirmed in the Lords, because the judgment had omitted to say that the bowels of the prisoner should be taken out and burned while he was yet alive: "In con-

¹ This Bill had been thrown out in the House of Lords in the Session of 1810-11. Vide *suprà* p. 201.—ED.

spectu ejus et ipso vivente." These were the words the omission of which was held fatal to the judgment. (*Salk.* 632; *Sho. P. C.*, 136.) The judges, it was held, had no discretion; the discretion here is transferred from the judge to the executioner. The judgment now is never executed, it is said, intentionally; when it does happen, it is, as Blackstone says, by accident or through negligence. (*4 Black.* 377.) As late, however, as the rebellion of 1745, it appears to have been executed intentionally, to make the punishment severe. (See the case of Mr. Townley, *9 St. Tr.*, 551.) In former times it was usually executed. (See, as to Babington and his accomplices, *St. Tr.*, vol. i. 134, 135; *Camd. Ann. anno* 1586; *Bacon's Works*, vol. ii. 57; the case of Harrison, one of the regicides, *2 St. Tr.* 403; and of James, *ibid.*, 274.) It is uncertain when this judgment was first introduced. Luders, in his Tracts, supposes it was in the reign of Edward I., in the case of David Prince of Wales; and a passage he cites from Fleta seems to favour that opinion. This instance, and that of William Wallace in the same reign, are the earliest accounts we have of the existence of such a sentence. It ought to be abolished, as the judgment of burning in the case of women was abolished by 30 Geo. III. c. 48. On the subject of corruption of blood I said very little, and only pointed out the distinction between that and forfeiture, which, though I highly disapprove, I do not now mean to propose to abolish.

There was no opposition to my motions; but Garrow (the Solicitor-General) announced his intention of opposing the Bills when they shall be brought in. In what he said, he proved that he had never thought on the subject, and was ignorant altogether of the grounds on which I proceed. He supposed my object to be, to state one certain punishment exactly defined in its nature and degree for each crime, and which was never to be departed from; and this, he argued, was impracticable, or would be attended with pernicious effects. On corruption of blood, he only observed, that men who would not be deterred by the fear of punishment on themselves were often prevented from com-

*Garrow Soli-
citor-General.*

*Corruption
of blood.*

mitting crimes by compassion for their children ; and he said he believed that suicide had often been prevented in persons who had insured their lives, by the knowledge that the sum insured would not be paid to their families if they fell by their own hands.

18th, *Th.* I republished my pamphlet on Criminal Law, with some additional notes to it.

March 2d, Tu. Mr. Grattan's motion for a committee to inquire into the state of the laws relative to *Roman Catholics*. *Roman Catholics* was carried in a very full House by a majority of 40, after a debate which has lasted four days. The division took place at four o'clock in the morning of the 3rd of March. I had supposed it would be at a later hour, and unfortunately got to the House just as the division was over, and was prevented from adding one to the majority.¹

5th, Fri. Cochrane Johnstone made a motion in the *House of Commons* respecting the *Princess of Wales*. It consisted of a long resolution, arraigning the proceedings which took place in 1806, and the subsequent proceedings, and requiring a production of papers. I thought it a duty which I owed to the Lords who were parties to these proceedings, and to the Prince too, to state what I know of the manner in which the inquiry had been instituted, and the mode in which it was conducted ; and to vindicate the legality of the proceeding.*

* The following is a tolerably accurate account of what I said upon this occasion. It is taken from the *Morning Chronicle* of Monday, 8th of March.

"Sir Samuel Romilly said, that if the motion had been merely for a production of papers, he should not have taken any part in the debate, for there were circumstances which would make it extremely improper in him to state any opinion upon the conduct of the *Princess* ; but the motion conveyed a strong censure on the proceedings which took place in 1806 ; and knowing what he did of those proceedings, he could not, in justice to the persons concerned in them,

¹ When it was expected that the debate in the *House of Commons* would be protracted to a late hour, Sir S. Romilly not unfrequently went to bed at his usual time, and rising the next morning somewhat earlier than usual, would go down to the *House* to be present at the division.—ED.

The debate was a very triumphant one for the Princess, and must have been extremely mortifying to the Prince. The Ministers, or rather Lord Castlereagh and some of his

remain silent. That he believed that no impartial man who was acquainted with the manner in which that inquiry was instituted, and the mode in which it was conducted, could think that any blame was imputable to those concerned in it. That in November, 1805, he received the commands of the Prince of Wales to attend him at Carlton House; and his Royal Highness on that occasion informed him that he was desirous of consulting him (Sir S. Romilly) on a matter of great importance to himself (the Prince), to his family, and to the State; that it was by the advice of Lord Thurlow that his Royal Highness had selected him to advise with; and his Royal Highness either said in express words, or conveyed by what he said the impression, that what had principally determined that he (Sir S. Romilly) should be advised with, was, that he was not connected in any manner with the Prince, and that he was wholly unconnected with politics.* His Royal Highness then stated the information which he had received respecting the conduct of the Princess of Wales, and the manner in which it had been communicated to him, and told him (Sir S. Romilly) that the information should be put into writing, and delivered to him, in order that he might give his opinion and advice upon it. That soon afterwards the written information, with certain other documents, were put into his hands; that he considered them with all the attention and anxiety which their great importance demanded, and in a letter, which he addressed to his Royal Highness, he stated the impression which they had made on him, with his reasons, at considerable length; that after this he knew that the Prince had caused means to be taken to have ascertained, as far as was possible, the truth or falsehood of the statement which had been made to him; and those means were, as he believed, adopted at the suggestion of Lord Thurlow. While those matters were depending, Mr. Pitt died; and, in consequence of his death, a

* On reflection, I doubt whether I did right in saying this, though it is strictly true. The Prince conveyed this idea to me, and the fact was, that I was quite unconnected with him, and with all political parties; but recollecting what had passed between the Prince and myself a short time before, and of which a very accurate account is to be found among my papers,¹ I doubt whether the Prince considered me as quite unconnected either with himself or with the Whig party. It is certain, however, that what had passed on that occasion was of such a nature as must have prevented my being advised with in such a case, if credit were not given to the truth of it, and if it were not intended to proceed upon it only by fair and honourable means.

¹ Vide *suprad*, vol. i., p. 433.—ED.

colleagues, to save themselves from the disgrace which their factious conduct on this subject, in 1807, must draw upon them whenever the papers shall be published, concur in

total change took place in the administration. In that change he was appointed Solicitor-General, and some time afterwards he again saw the Prince on the subject of the Princess's conduct, and by his Royal Highness's command waited on Lord Thurlow, who told him that he thought the information much too important to remain without any step being taken on it; that it ought to be communicated to the Ministers; and that, in his opinion, it had already remained too long in the Prince's possession unproceeded on. On the same day he delivered this message to the Prince, and immediately, or very shortly after, the matter was communicated to some of the Ministers; and his Majesty was pleased, under his sign-manual, to authorize the four Privy Counsellors who have been named to inquire into the truth of the representations which had been made, and report their opinion on them. Several meetings then took place for the examination of the witnesses, at which no person was present besides the four Commissioners and himself; and the only office he had to discharge was to write down the depositions of the witnesses, and read them over to them before they were signed. For this office he was selected in preference to the then Attorney-General, or to any other person, merely because he was already acquainted with the facts; and it was advisable, if it should not be therefore necessary to institute any judicial or legislative proceeding, that as much secrecy as possible should be observed. Having been present at all the examinations (except on one day, when by accident he did not receive the notice), he would say from his own observations that they were conducted with all the impartiality of judges acting under the sacred obligations of an oath. Of the report which they made, it would be highly improper for him to say anything; he could not state any opinions without adverting to the facts, which, considering the manner in which he had become acquainted with them, it was his duty not to publish. Some observations had been made on the opinion afterwards given by the then Attorney and Solicitor-General. Of that opinion he would only say, that if they did not recommend a prosecution against any of the witnesses, it certainly was not from any doubt that they entertained of the authority of the Commissioners to administer an oath, or of the legality of the commission under which they acted. Doubt, however, had been suggested by the honourable gentleman on its legality; and, in the letter which the Princess of Wales addressed to the King in 1806, and which the honourable gentleman had ascribed to Lord Eldon, Mr. Perceval, and the present Attorney-General, the legality of all the proceedings is called in question. That the letter was written by those persons he never would believe till he heard it from unquestionable authority. It bore the strongest internal evidence that it could not have had the

acquitting the Princess of all blame, and consequently throw all the odium of the neglect she has experienced upon the Prince. I cannot but wonder at the extraordi-

sanction of such persons. The objection, indeed, seemed to turn merely upon the forms observed with respect to the instrument giving the authority, and yet it was surely impossible to doubt that, on a representation of misconduct in a member of the Royal Family, involving besides a charge of high treason, and presenting the danger of a disputed succession, the King's verbal authority to a number of Privy Counsellors was sufficient. The letter complains that the ordinary modes of inquiry were not resorted to, as if the Ministers ought immediately, without endeavouring to investigate the truth of the charges, to have caused a bill of indictment to be preferred to a grand jury, and to kindle a flame in the kingdom on a charge of such importance, when possibly there might be no real foundation for it. The slightest knowledge of our history was sufficient to leave no doubt on the constant recourse had to such inquiries, from the time of Sir John Fenwick (to go no earlier) to the trials of Mr. Horne Tooke and Mr. Hardy. Certain members of the Privy Council had, on a charge of treason or treasonable practices, always inquired into the truth of the charges before any judicial proceeding was instituted. The legality of such proceedings is, indeed, recorded by the whole Legislature. In the Act passed on occasion of Mr. Harley's life having been attempted while he was sitting as a Privy Counsellor on such an inquiry, the Act states that it was while he was in discharge of his duty; but it should seem, according to this objection, it should have been stated that he was acting illegally and in violation of his duty. That this committee of the Privy Council consisted only of four persons could afford no objection; no one would pretend that, by law, a larger number was necessary. It had been said that if they could acquit, they must have had a right to condemn, as if an *ex parte* examination was not sufficient in all cases to justify an acquittal, and as if it could in any case warrant a condemnation. When Margaret Nicholson was seized in a treasonable attempt on the King's life, and when, on its being ascertained, on an inquiry before a committee of the Privy Council, that she was disordered in her mind, and in consequence of it she was never brought to trial, did any person ever question the legality of the proceeding? Surely the objection could never have been seriously entertained, and never could have been made but to answer the most factious purposes. The proceeding of 1806 was entirely an *ex parte* proceeding; and upon that alone no person could be convicted of any offence, whatever might be the evidence on which it had proceeded. He understood that it had been treated by the Commissioners themselves as an *ex parte* proceeding, and that they had suggested that a copy of it should be delivered to the Princess of Wales, in order to afford her Royal Highness an opportunity of producing other evi-

nary success which has hitherto attended the bold, and what at first seemed the rash, steps which the Princess has taken. The publication of the depositions taken in 1806 would not, I think, fail to destroy her reputation for ever in the opinion of the public; and yet she has repeatedly called for the publication of them. The Ministers dare not produce them, because, by so doing, they would condemn themselves; and, as they were not produced, she has, in the opinion of the public, the advantage of having it taken for granted that they would put her innocence beyond all question. Brougham is her adviser, and hitherto it must be confessed that his advice has been completely successful. Johnstone's motion was negatived without a division.

8th, *Mon.* Mr. Nash, the architect, who, ever since his projected improvements of Marylebone Park, has been in great favour with the Regent, and who lives in constant habits of intimacy with Lord Yarmouth, called on me early this morning. He told me that the manly part I had taken in the debate on Friday had been very thankfully received at Carlton House; and, though he did not come with any express message to me, yet he knew with certainty that the Regent was very desirous of seeing and consulting me; and he desired me to tell him whether I should have any objection to see the Prince on the subject of the Princess of Wales. I told him that I was very sorry, but that I certainly must object to it. That the treatment of the Princess was a matter of great public concern; and that it appeared to me to be very unconstitutional for the Sovereign to advise with any persons but his Ministers, on any public matter.

9th, *Tu.* Mr. Grattan, in a committee of the House of Commons, moved for leave to bring in a Bill for the relief of the Catholics. The question was carried on a division, by a majority of 67; and I had the satisfaction of voting in the majority. The numbers were [for it 186; against it 119].

dence, if she should desire it. These matters, with respect to the form of the proceedings, he had thought it his duty to state, and he thought it as much his duty not to say anything on the merits of the case."

11th, Th. The Bill for appointing a Vice-Chancellor was read a third time, and passed. I spoke against it at more length than I had done on either of the former occasions. It was carried on the third reading by a majority of 38; for it 127, against it 89. Canning afterwards moved to limit the duration of the Bill to seven years; for this clause, upon a division, the numbers were 114, and against it 145; consequently it was rejected by a majority of 31. I have the satisfaction of reflecting that I have opposed this Bill by every means in my power: I have voted, and spoken, and written against it. There is the greatest reason to apprehend that, from this time forward, the office of Lord Chancellor will be much more a political than a judicial office; and what effect will be produced on the profession and on the administration of justice by such a change in the highest judicial office, and in that office to which alone belongs all the patronage of the profession, with the exception of the Welsh Judges, (who, for what reason I know not, are considered as in the immediate appointment of the First Lord of the Treasury,) it is easy to imagine. In the course of the debate, and in answer to a speech of the Solicitor-General, I observed that it was generally understood that it depended on the passing or rejection of this Bill whether he should be raised to the highest office in the profession which is not of a judicial nature. He protested that he had no knowledge who was to be appointed Vice-Chancellor,* or that he was to succeed to any office; and he declared that he had not been influenced in any thing he had said in support of the Bill by any prospect of advantage to himself.

13th, Sat. Mr. Nash called upon me again. He told me that his former visit to me was made at the request of the Regent, and that he had since had much conversation with him; that the Prince was still desirous of seeing me; and said that he had a right to consult me as his counsel, and that as such I was retained for him. I told Mr. Nash that in all his Royal

*Bill for ap-
pointing a
Vice-Chan-
cellor.*

*Mr. Nash's
applications
to me respect-
ing the Prin-
cess of Wales.*

* When the Bill had passed, Plumer, the Attorney-General, was appointed Vice-Chancellor; and Garrow, the Solicitor-General, was appointed Attorney-General.

Highness's private concerns he had undoubtedly a right to command my advice and assistance ; but that the conduct of the Princess of Wales had become a matter of State ; had been submitted to the consideration of committees of the Privy Council ; had been a subject of consideration by the Cabinet ; and was as much a matter of public concern as the war with Spain or with America ; and that it was impossible for me to advise with the Prince upon it. He said that I could surely have no objection to see the Prince, and that my advice to him might be of great importance to him and to the country. To this I answered that if the Regent commanded my attendance, I should of course attend him ; but that, if he asked my opinion or advice respecting the Princess, I should be obliged to tell him that I thought it my duty not to give it him. Mr. Nash, in the course of the conversation, produced to me a letter which he had this morning received from Lord Yarmouth, in which was a paragraph, which, as nearly as I can recollect it, is in these words : " It is desired that you should tell Sir Samuel Romilly that his advice has been followed" (or received, I am not sure which) " with all the attention and respect which any suggestion of his deserves." On his reading this to me, I observed that I could not understand to what it referred ; that he knew very well that I had given no advice, and had altogether declined giving any. He said this was true ; but as we had conversed together on the subject of the Princess, he had mentioned to the Prince what he understood to be my opinion, and particularly that I thought the Prince had better leave the matter as it stood, and proceed no farther upon it ; and he supposed this must be what was alluded to. I said that he must know that this was not said as any advice offered to the Prince. We had some more conversation, in which he said, that Lord Yarmouth had asked him whether he thought that I was so much of a party man as on that account to have any personal objection to himself ; and he asked, but as entirely from himself, whether I should think it a duty to refuse the Great Seal, if it were offered me, unless all my political friends formed part of the administration. I told him that it was not by party

motives that I was actuated ; but that my opinion was, that no good could be done to the country unless those men who had acted upon Mr. Fox's principles were in administration ; and that I should not consent to form part of any administration in which they were not comprehended.

The *Morning Herald* of to-day, which is considered as the Regent's paper, and of which the proprietor is Bate Dudley, who was created a baronet by the Regent among the last promotions, contains all the depositions taken against the Princess in 1806. A great part of them are also inserted in the *Morning Post* of to-day, the paper the most strongly in the interest of Government. They must certainly have been published by the direction of the Prince ; and this brings to my recollection that, in my former conversation with Nash, I told him that, as so much respecting the Princess had been published, it seemed to be for the Prince's interest that the whole should be published. What Nash may have said or done in consequence of this I know not, but certainly I have given no advice to the Prince ; and I certainly never should have advised him to publish the depositions.

14th, *Sun.* I called this morning on the Duke of Gloucester, and very unusually was let in. He was alone ; and, after other topics of conversation, the Princess of Wales was mentioned. In the course of our conversation, the Duke told me that he disbelieved all the evidence against the Princess ; that he thought not only Sir John and Lady Douglas, but Cole, Bidgood, and all the other witnesses who had stated anything material against the Princess, were perjured. I did not tell him my opinion.

17th, *Wed.* Mr. Nash called upon me again this morning. He said that he came to renew the subject of our last conversation. That he was extremely anxious that I should see the Prince ; that the Prince had no person who would speak honestly and openly to him ; that he thought that, if I saw him, what I should say to him might lead to a total change in the administration ; that he was still attached to his former political friends ; and that it was ridiculous that Lord Yarmouth and Lord Hertford should

be made by the opposition an objection to their coming into power; that those Lords, he was sure, cared little about any political party, and only wished to retain their situations about the Prince. He said that he did not come to me by any authority whatever from the Prince; but that, since he had seen me, he had had a very long conversation with the Prince, at which no person was present, the Prince having made some excuse for sending away Lord Yarmouth; and that, in that conversation, the Prince had talked much about me, and of the confidence he was disposed to place in me; and had said that, in a matter respecting his own family, he had a right to consult me as his private counsel.* The Prince, in the course of what he said, remarked, that I now never left my name at Carlton House, which is true: since the restrictions on the Regency ceased, I have omitted to do so. Mr. Nash said that he made an excuse for me by saying that my calling at Carlton House might have the appearance of showing that I wished for some mark of his Royal Highness's favour, which, considering my political attachments, I ought not to do; and therefore he supposed I had omitted to do so. To all this I answered, that the more I considered the subject, the more I felt the great impropriety of the Prince taking advice relative to the Princess from any person but his responsible Ministers; and that I could not reconcile it to any notions I entertained of my duty to offer him any advice. He spoke of the debate which was to take place to-day in the Commons upon Whitbread's motion, and seemed to wish very much that I should take a part in it favourable to the Prince, though he did not make any request of that kind: upon this I said nothing.

I am just returned from the House, and have taken no part whatever in the debate, except to give Debate on the Princess of Wales. some explanation on a charge Whitbread brought against the Commissioners in 1806, of

* The Prince said, that he had observed two justifications of him published lately in the *Morning Chronicle*, and he supposed that I was the author of them; but I assured Mr. Nash, as is the truth, that I had neither written them nor knew anything about them.

not having taken Mrs. Lisle's evidence as she gave it. Unfortunately I was not present when she was examined, which was on the 3rd of July ; but, unless the examinations were conducted very differently on that day from what they were on every day on which I attended, Whitbread's information could not be correct. He produced a long statement of written questions and answers, which he said constituted the examination. Now, while I attended, none of the questions were put down in writing. The information given by the witnesses in answer to the questions was alone put down, and then read over to the witnesses, and signed by them. I stated this in the House.

I brought this day into the House of Commons my Bills for taking away corruption of blood and altering the punishment of high treason.

21st, Sun. I dined to-day at Nash's. I and Anne had been invited some time, and we have been in *Dinner at Nash's.* the habit for some years of dining now and then at each other's houses. To my surprise, Lord Yarmouth dined there. It was his first visit, and he was introduced to Mrs. Nash as a stranger to her. I was introduced to him in the same way, though I met him once before, some years ago, at Holland House. Nothing passed between us but in the general conversation which took place. Politics were hardly adverted to ; and though the Princess of Wales and the recent publications were mentioned, it was only by some common and trivial observations being made upon them. Before Lord Yarmouth came in, however, Nash took me aside to tell me that everything was in confusion at Carlton House ; that this was the moment for bringing about a change of administration ; that he was himself most anxious that it should be effected ; and that I was the link by which the Prince might be re-united with his old political friends. I told him that to me this really appeared to be quite impossible. He said that he had, however, thought it right to apprise me of this, and that he had again had a long conversation with the Prince last Friday.

That I make memorandums of these conversations is

not because I attach much importance to them; but it may be useful hereafter to recollect how little of importance does pass in them, especially after Lord Yarmouth's note of the other day.

Mr. Egerton, the Member I think for Chester, Mr. Holmes, who is also in Parliament, a Mr. Barnston, Dr. Hughes, the principal of Jesus College, Oxford, Anne, two other ladies, and two of Mr. Nash's pupils, and my son William, were the only other persons present at this dinner.

22nd, *Mon.* In the House of Lords, Lord Ellenborough and the three other Commissioners of 1806 defended themselves from Whitbread's accusation of having taken Mrs. Lisle's evidence incorrectly. In substance their justification was complete; but nothing could be less dignified, or in the manner more unbecoming a magistrate in his high station, than the speech of Lord Ellenborough. He hardly omitted one epithet of coarse invective that the English language could supply him with.

26th, *Fri.* The Bill to repeal the Act of King William, making the offence of stealing privately in shops to the amount of five shillings a capital offence, was read a third time in the Commons and passed. On the division the numbers were, Ayes 72, Noes 34. The principal speakers against the Bill were the Attorney-General (Plumer), Sergeant Best, Wetherell, and Frankland. Garrow did not speak, but voted against the Bill.

*April 2d, Fri.** The Bill was thrown out in the Lords to-day upon the second reading, by a majority of

* I this morning, as counsel, attended a committee of the Privy Council, on behalf of the inhabitants of Jersey, to resist an attempt which is making to alter their constitution, and to take from them their right of election of jurats, who constitute a part of their legislative assembly, and form their supreme court of justice. The right of election has, at least from the time of Charles II., been in all masters of families rated and paying taxes.

The Privy Council advised the Prince not to do anything upon this application. July, 1813.

26 to 15. The speakers against the Bill were Lord Sidmouth (Secretary of State for the Home Department), the Lord Chancellor, and Lord Ellenborough; and amongst the silent voters against it were the Dukes of York and Cumberland, the Archbishop of Tuam (Cornwall), Bishop of Worcester (Luxmore), Bishop of Hereford (Jackson), Bishop of Oxford, and (Law), Bishop of Chester, Lord Redesdale, and Lord Liverpool. The Lords who spoke in support of the Bill were Lord Holland, Lord Grey, Lord Lansdowne, and Lord Grenville. For strength of reasoning, for the enlarged views of a great statesman, for dignity of manner, and force of eloquence, Lord Grenville's was one of the best speeches that I have ever heard delivered in Parliament. The following Lords voted for the Bill: the Duke of Gloucester, the Duke of Norfolk, Lords Spencer, St. John, Saye and Sele, Rosslyn, King, Bristol, Somers, Darnley, Albemarle, Lansdowne, Grey, Grenville, Holland. *

5th, *Mon.* The Bill to take away corruption of blood went through the committee in the House of Commons. The Ministers, who opposed it, were desirous that the debate on it should be taken in a future stage of the Bill, and not on the question of going into committee; and Lord Castlereagh, before I came to the House, taking for granted that this would be done, told Ponsonby that there would be no debate on it; in consequence of which, Ponsonby and many other friends to the Bill went away. I said that I disapproved very much of this arrangement; that of course I could not oblige gentlemen to oppose my Bill, when they did not choose to do it; but that it was very desirable that I should hear what the objections to the Bill were before it was committed, because they might be of such a nature as could be removed in the committee; and that it was not quite fair to reserve their objections to the third reading of the Bill, and then when there

* Against the Bill, besides those mentioned before, were Lords Kenyon, Rothes, Poulett, Falmouth, Sandwich, Rolle, Walsingham, Cholmondeley, Bathurst, Shaftesbury, Kellie, Grimston, Wodehouse, and Pomfret.

might be no time or opportunity for considering them, insist upon them, and throw the Bill out. All the enemies to the Bill, however, remained silent. After the Bill had gone through the committee, and when I moved that the report should be received on the next day, I said that I should take that opportunity of stating, more fully than I had done on moving for leave to bring in the Bill, the grounds on which I rested it; and that I was the more desirous of doing so, because I thought that it was misunderstood; and that if I explained the measure I might perhaps remove some objections before I heard them. Accordingly, I went pretty fully into the subject, and showed that it was really a consequence of feudal tenures, and not in truth a penal law. I endeavoured to show that, as a penal law, it operated to inflict punishment on the innocent for the crimes of the guilty; and this, possibly, at the distance of a century after the offender was dead, and his crimes forgotten: that of the law of *forfeiture*, (though it appeared to me to be very unjust, since it inflicted punishment immediately on the innocent, and only by sympathy on the guilty,) yet still it might be said that the dread of that injustice falling on the near connexions of the criminal might deter him from the commission of crimes. But no such dread could result from the law which induced *corruption of blood*, since it was only in the case of the person seised dying intestate that the law could operate; and it might always, therefore, be defeated by the party making a will. To suppose that men would be prevented from the commission of crimes by the prospect of a distant evil to befall their remote relations, and which with a little caution may always be avoided, seemed very absurd. I insisted on other topics, too, which it is unnecessary to detail; and, knowing how important on such occasions the authority of writers of great name is considered, I relied very much upon what Mr. Justice Blackstone says of this law, and upon the wish he expresses that "the whole doctrine should be antiquated by one undistinguishing law." (*Blackstone's Commentaries*, vol. ii. 254, 256, vol. iv. 389.) Charles Yorke said that, as I had thought proper to enter

upon the merits of the Bill, he should now proceed to state his objections to it ; and, that the debate might not be without any object, he should conclude with moving that the report be received on that day six months. He accordingly opposed the Bill at considerable length. He was followed by Frankland, Wetherell, and some others ; and, while the debate was going on, the Secretary of the Treasury sent for all the adherents to Government that could be procured ; and on the division, the Bill was thrown out ; the numbers being for it [43], against it [55]. Both Yorke and Frankland said that they had no objection to take away corruption of blood in cases of felony, but in treasons they were clearly of opinion that it should be preserved. And yet, instead of moving to strike out the word “ treason ” in the committee, or proposing now to amend the Bill by confining its operation to felony, they voted for rejecting the whole Bill. As to a part, and that a very considerable part of it, they approved the Bill which they opposed. Yorke was induced, I believe, to take the part which he did on this occasion through filial piety towards his father, who, when a very young man, wrote his *Considerations on the Law of Forfeitures* ; a work full of technical arguments, and of little merit, though unaccountably of some reputation, in which he incidentally says something in defence of this doctrine of corruption of blood. Charles Yorke, in the course of his speech, cited this work ; which gave me occasion to read a letter from Mr. Yorke to Blackstone on the subject, which I am in possession of, and had taken with me to the House. He says in it, “ As to corruption of blood, it is one thing to explain the grounds of law, and another to wish the law altered in that respect, as being carried too far. I have done the first, but said nothing as to my opinion in the latter respect. The actual forfeiture in treason was the point of my argument ; and to show it consistent with the justice, the policy, and principles of a free government. Permit me, however, to desire that you will strike out any reference to that very juvenile treatise.” *

Yorke's Considerations on the Law of Forfeitures.

* This letter is dated Jan. 26, 1766.

The only person who supported me in the debate was Preston, the conveyancer. The arguments used against the Bill had really no, or but a very distant, application to it: they were all in defence of forfeitures, not of corruption of blood. A circumstance which excited much surprise among my friends, and which no person could account for, was Lord Yarmouth voting in the minority. It proceeded, in truth, from a desire to show civility personally to me; and Mr. Nash had told me beforehand that he meant to vote with me, and that he should have voted for the Shoplifting Bill if he had known when it was to come on.

Bill to alter the punishment of high treason. 9th. *Fri.* The Bill for altering the punishment of high treason passed to-day through the Committee. On my moving that the Report should be received on Monday next, Frankland moved that it should be postponed for six months. On a division, this was carried by a majority of 15; 75 for postponing it, and 60 against it; so that the Bill is lost, and the Ministers have the glory of having preserved the British law by which it is ordained that the heart and the bowels of a man convicted of treason shall be torn out of his body while he is yet alive. In the Committee, I added to the Bill, that after execution, the body of the convict should be at the disposal of the King.

Mr. Yorke was for preserving that part of the sentence which ordains that, after the offender is put to death, his head shall be cut off, and his body divided into four quarters. The propriety of retaining the severing the head from the body was maintained by Sergeant Best¹ and several other members, on the ground that it was the only constitutional mode of enabling the Crown to order that attainted traitors should be beheaded. They said that, by law, the Crown could not change any sentence for another; it could only remit a part of the sentence; and in these cases it, on some occasions, remitted all but the beheading. In truth, however, this notion of

¹ Now Lord Wynford.—ED.

pardoning or remitting a part of the punishment, though it is sanctioned by the great names of Lord Coke, Lord Hale, and Lord Bacon, seems to be a very puerile conceit; since the taking away the first part of the punishment alters entirely the nature of what remains. It might as well be contended that the Crown might merely remit the hanging, and by that means cause the punishment to become that of tearing out the heart and bowels of the convict while he was in full life, and possessed of all his unbenumbed susceptibility of pain; or that, if a sentence were that the criminal should be hanged, and then buried in a particular place, or hanged in chains, or burned, the Crown might remit the hanging, and send the offender to be suspended in chains, or buried or even burned, while he was alive. I contended against this doctrine, and argued, as Mr. Justice Foster has done, that the Crown had been considered to have a right by its prerogative to substitute a mild in the place of a severe punishment: that on this principle alone could be justified the many instances which had occurred of women convicted of treason being beheaded, though the judgment against them was merely that they should be burned, without any mention of severing the head from the body. Such were the cases of Anne Boleyn, Queen Catherine Howard, Lady Salisbury, Lady Jane Grey, and Mrs. Lisle. In the case of Mrs. Lisle, the matter had undergone much consideration, and James II. had it clearly ascertained that he had a right to change the sentence before he did it. In the case of the Duke of Somerset, in the reign of Edward VI., and that of Lord Audley, in the time of Charles I., though the offenders were convicted of felony, and merely sentenced to be hanged, the King changed their sentences into that of beheading. In the debate on the Bill, even those who were for getting rid of it altogether admitted that that part of the sentence which relates to the taking out the heart and bowels while the malefactor is alive, and burning them in his sight, ought to be omitted. They stated this to be their opinion; and yet, instead of proposing any alteration of the Bill to confine it to this single object, they preferred leaving it as it was, in order to have an

excuse for rejecting it. Garrow said he never would have voted for such a law originally; but, as we found it a part of the law, he was against altering it. He had come down to the House with a speech, which turned principally on the importance and necessity of leaving the body of the convict at the disposition of the King. The alteration I had made in the Bill in the committee removed these objections, and rendered his remarks quite inapplicable. He seemed, however, to think it necessary to speak; and, therefore, delivered his speech intended for quite a different purpose. Plumer thought it important to stay and vote against the Bill, though the division did not take place till after 12 o'clock, and conse-

*Plumer ap-
pointed Vice-
Chancellor.* quently not till Saturday morning. On the same Saturday he was appointed Vice-Chancellor; for his appointment appeared in this evening's Gazette.

A worse appointment than that of Plumer to be Vice-Chancellor could hardly have been made. He knows nothing of the law of real property, nothing of the law of bankruptcy, and nothing of the doctrines peculiar to courts of equity. His appointment to this office is the *The Lord Chancellor.* more extraordinary, as the Chancellor is fully aware of his incapacity to discharge the duties of it; and as Richards, who is certainly the best qualified for it of any one now in the profession, and whose politics could raise no objection to his promotion, has been always considered as the Chancellor's most intimate private friend.* The Regent certainly cannot have made it a point to have Plumer promoted, since he is one of the avowed authors of the Princess of Wales's defence, which abounds with the most injurious insinuations against the Prince. The only explanation of all this is, that with the rest of the Ministry Plumer has a very strong interest; that they have earnestly pressed his appointment, and

* Richards has since told me, that, while the measure was depending, the Chancellor gave him the strongest reason to believe that he would be the Vice-Chancellor. What he said on the subject was so strong that, as Richards expressed it, coming from any one else, it must have been understood as a direct promise.

have represented that it would be a great slight upon him if he were to be passed by ; and that the Chancellor has not on this, as he never has on any former occasion, suffered his sense of duty towards the public, or his private friendship, to prevail over his party politics.

12th. *Mon.* An address of congratulation to the Princess of Wales, on what is called the mani- ^{Princess of Wales.} festation of her ianocence, has been voted by

the Livery of London, and was this day carried up to her by the Lord Mayor and the Livery. The Princess, instead of receiving it at her house at Blackheath, appointed Kensington Palace as the place at which she would receive it, that the procession might pass all through London ; and she fixed on a Monday, that being with a great many inferior workmen a sort of holiday. There was accordingly an immense crowd of persons at Kensington and accompanying the procession. This example of congratulating will undoubtedly be followed in many other places, and meetings are already advertised in Westminster and Southwark.

17th, *Sat.* At Mr. Ponsonby's, where I dined to-day, Lord Grey told me an anecdote of the Chancellor, which, considering the part he acted in 1807, is worth remembering. A few days ago Lord Grey was sitting by him in the House of Lords on the woolsack, and some mention being made of the Princess of Wales, ^{The Lord Chancellor.} the Lord Chancellor said, " My opinion is, and always was, that, though she was not with child, she supposed herself to be with child." He also said, " I do assure you (you may believe it or not as you think proper), but I do assure you that when I had the conference with the King in 1807, which I requested, it was solely for the purpose of representing to him what mischief might follow if Perceval was not prevented from publishing the book which he was then bent on publishing."

18th. I lately entertained thoughts of bringing under the consideration of Parliament the case of ^{Case of Philip Barry.} Philip Barry, convicted at the Kilkenny sum- mer assizes of 1809 of a highway robbery, and executed. Before I did it, however, I endeavoured to procure the

best information possible relative to the case; and Mr. Ponsonby and Mr. Plunket have made for me all the inquiries about it they could. The result of these inquiries is, that, although the man's trial was very improperly hurried on by Lord Norbury, when it was impossible for him to procure the attendance of witnesses, who had material evidence to give for him, and though on this ground alone the application to the Lord Lieutenant for mercy ought to have been attended to, yet I do not find that there is any sufficient reason for doubting that the man was guilty. I have therefore abandoned my intention of bringing the subject before the House of Commons. However culpable the Judge and the Government may have been, it is certain that the House will not think them so, or take any interest in the case, if the prisoner were really guilty. We ought to be particularly attentive to the mode in which justice is administered in Ireland; since abuse of authority and criminal neglect are more likely to take place, and when they do, to escape observation and censure, at such a distance from the principal seat of government, than when they fall under its immediate view: but yet it is necessary to be very careful not to bring forward any charge which really can be, or can even be represented to be, satisfactorily answered; since such a step always increases the evil it was intended to remedy.

I have abandoned for the present my intention of bringing in a Bill to make freehold estates liable, after the death of the proprietor, to the payment of his simple contract debts. I could not well bring it forward while my other Bills were depending; and the fate of them proves that I could not now succeed in carrying such a Bill through the House.

May 4th, Tu. A Bill has been brought into the House of Commons by Mr. Holme Sumner (the Member for Surrey) to enable justices of the peace to provide proper places for depositing and preserving the public records of the counties, and to settle the fees to be taken by the clerks of the peace; upon which the House went to-day into a committee. I proposed in

the committee two clauses to be added to the Bill: the one to compel the clerks of the peace to make returns every year to the Secretary of State for the Home Department, of the persons tried at the quarter sessions, of the event of their trials, and their sentences; and the other to declare that it should be unlawful for any clerk of the peace, who should be appointed after the passing of the Act, to take any fee on any acquittal, or upon a defendant pleading not guilty. The first of these clauses was lost by a majority of 45 to 40, but the second was carried by a majority of 56 to 42.* Both the clauses were opposed by the Ministers. Bragge Bathurst and Hiley Addington spoke against them, and Lord Castlereagh, Vansittart, and every person in the House connected with Government, voted against them. The arguments used in opposition to these clauses were not a little curious. It was admitted to be extremely desirable that such returns as the clause required should be made, and that the fees in question should be abolished; but it was said that it would be better if I would bring in a Bill for these express purposes, and which might be made to extend to the clerks of assize who took similar fees. To this I answered that, with the experience I had of the difficulties thrown in my way on all such occasions, I felt no encouragement to bring in such a Bill, and should not bring any in; and that it appeared to me to be a strange argument against reforming an evil admitted to exist, that, after it was reformed, there should still remain other evils of the same kind.

7th, *Fri.* Dallas was this day sworn into the office of Solicitor-General, and Richards into the office of Chief Justice of Chester, which Dallas resigned. About a week ago, Garrow was appointed Attorney-General.

June. Holme Sumner asked me, some time after the

* Most of the newspapers stated this clause to be *lost* by this majority, and probably that error will pass into the *Parliamentary Debates*.¹

¹ Such is the case. See *Hans.* vol. xxv. p. 1133.—ED.

clause had, at my instance, been added to his Bill, whether I would consent to strike it out ; and told me that, if I did not, he should abandon his Bill altogether. Of course I would not consent to strike the clause out, and he has since taken no step. The Bill will drop unless I carry it through, which I certainly have a right to do. But I do not know enough of the merits of the Bill, except the clause which I have added, to judge whether it is desirable that it should pass. I shall therefore take no step upon it, and the Bill will drop.

4th, *Fri.* I got out of town to Tanhurst, and was able to stay there with my family during the Whitsun holidays, and till the 10th.

A Bill for the relief of insolvent debtors came down ^{Bill for the relief of insolvent debtors.} some time ago from the House of Lords, and lingered a long time in the Commons. The object of it is to reform our present law and practice with respect to debtors ; to reform the law by which a creditor has the power to keep his debtor in prison for life, notwithstanding he may be willing to give up everything that he has in the world for the satisfaction of his debts ; and to put an end to the legislative practice of having recourse, as a remedy for these evils, to the scarcely inferior evil of occasional insolvent debtors' acts, passed at uncertain but never at distant periods, which for the time abrogate the law, cancel men's contracts, and turn loose a crowd of insolvent debtors, because they are multiplying so fast that the prisons are hardly capacious enough to hold them. The Bill erects a new court consisting of a single Judge, before whom debtors, who have been three months confined in execution, may, on giving up all their property on oath, claim their discharge. Their subsequently acquired property, however, is still to be subject to the payment of their debts ; and, on proof to the satisfaction of the Judge that such property has been acquired by the debtor, and is not applied to the payment of his debts, or that a false account has been given in of his property, or that any fraud has been practised, the Court is to have power to recall the discharge, and to leave the debtor again subject to the same process

against his person as he was exposed to before he took the benefit of the Act. Lord Redesdale is the author of this Bill. Though the principle of it is extremely good, many of its provisions seem open to much objection. It is, however, not a little surprising that, such as it is, it should have been suffered by the Lord Chancellor and Lord Ellenborough to pass the House of Lords. Those Lords opposed the Bills for the same object which Lord Redesdale brought in in former Sessions ; and, from what Lord Ellenborough has since said to me, I cannot but think that, when they allowed this to pass, it was very much in the hope that it would be thrown out by the Commons, or would be so altered as to afford the Lords grounds for dissenting from the amendments when it came back to them. It appeared to me, therefore, to be very desirable that the Bill should pass the Commons nearly as it came down from the Lords, and that the defects in it should be left to be removed by the act of some future session. Kenrick, who took charge of the Bill, but with no friendly disposition towards it, added several clauses in the committee, of which the most important were, one to punish with death all insolvent debtors who should give in a false account of their property, and one to limit the benefit of the Act to debtors who had been six months prisoners in execution. I prevailed on the House, on recommitting the Bill, to strike out both these alterations, and to restore the Bill very nearly to the state in which it was when it came down to us. If a debtor is to have the benefit of such a law, it is surely desirable that it should be before he has been long enough in prison to have acquired the habits, and dispositions, and maxims which are learned in those abodes of vice and misery, and while he may yet be restored as a useful member to the community. The clause creating a capital offence had been added without the knowledge of any one person in the House except the mover of it ; so little account in these matters is made of human life. No one was anxious to retain it, and it was struck out at my suggestion as quietly as it had been inserted. These, however, were not alterations which would have been particularly objectionable to the Lords

who were hostile to the Bill, or which would probably have been considered as affording any plausible pretext for rejecting it. It was proposed to extend the benefit of the Act to India, where imprisonment is accompanied with aggravated evils which do not in this country attend it; but this, as well as other beneficial alterations which were suggested, it was found necessary entirely to give up. The common council of London declared themselves inimical to the Bill, and appointed a committee to oppose it. A deputation of those gentlemen, consisting of Alderman Combe and Mr. Waithman, had a conference with me on the subject; which ended in undiminished hostility to the measure on their part, and unabated zeal for it on mine. Amongst other things, they were very anxious that, if the Bill were suffered to pass, it should give a power to every creditor to compel his debtor, whether he desired to take the benefit of the Act or not, to give up all his property for the payment of his debts. Such a provision I very much approve of; but to attempt it at the present late period of the Session, and with the dispositions which are entertained towards the measure by those in whose hands its fate would by such an attempt be placed, is inevitably to defeat the whole plan. To compel debtors of all descriptions to give up all their property to their creditors; to enable the taking all real estates in execution and bringing them to sale; to extend this even to copyholds; to take away the shameful means of purchasing delays which now exist, the writs of error and exchequer injunctions which are so frequently resorted to,—all this would be a great good; but it would be a great and extensive innovation, which, as such, would have to encounter every species of obstruction from those who are, on all occasions, the defenders of long-prevailing abuses. In the mean time, however, the Bill has fortunately escaped the amendments both of enemies and of friends, and has gone back to the Lords without any important alteration. At the Lord Chancellor's, on the first day of term, Lord Ellenborough spoke to me upon, or rather against, the Bill with no small degree of vehemence; and declared that, if it passed, it would be indis-

pensably necessary, in this very session, to bring in a bill to explain and amend it.

July. When the Bill was returned to the Lords, the Lord Chancellor said in the House, that there had been a strange oversight in the Commons, in not inserting a provision for the Judge of the Court; and he intimated that it would therefore be necessary to give up the measure. When I read this in the newspapers, I immediately called upon his Lordship, and informed him (as was the fact) that it was by no inadvertence that a salary had not been provided for the Judge; but because Kenrick, whom Lord Redesdale had desired to take charge of the Bill in the Commons, had assured me that, as it could not be ascertained beforehand what would be the extent of the new Judge's duties, it had been determined that no stated compensation should be provided for him; but that, as had been often done in the case of commissioners appointed by Parliament, the amount of his compensation should be left for future consideration.* The Lord Chancellor said that he really had not understood this before. He assured me that he had no desire to throw any difficulties in the way of the Bill passing; but that, if it were to pass in its present form, he believed that no person who was fit to be the Judge of the Court (and it ought to be filled by one who was eminently qualified for the situation) would accept the office; and in that case all the odium of the measure remaining ineffectual, by no Judge being appointed, would undeservedly fall on him; and this, he said, he was very desirous to avoid. There cannot be any doubt who ought to be appointed to this new judgeship. Cooke, the author of the *Essay on the Law of Bankrupts*, has pretensions to it so much superior to those of any other man, that, if the appointment depended on the suffrages of the profession, he would probably be elected without one dissentient voice. Having ascertained from Cooke himself that, if the office were offered to him, he would not refuse it, I again went to the

* In truth I thought this, in the case of a Judge, very objectionable; but the same reason which induced me to waive objecting to other parts of the Bill made me acquiesce in this.

Chancellor, and told him that I thought he would not meet with the difficulty he had supposed; and that I was certain that, if the place were offered to Cooke, he would accept it. His Lordship seemed not a little embarrassed; and he immediately turned the conversation to another subject. Not a word more, however, has been said about the objection in the House of Lords; but the amendments in the Commons have been agreed to, and the Bill has passed. That Cooke will not be the Judge, and that some man very much his inferior in every qualification for the office will, is that of which I entertain no doubt; although Cooke is so eminently qualified for the office, and although his politics have always been, in a very quiet way, on the side of Government.

Sir William Scott brought in a bill for the better regulation of the Ecclesiastical Courts, which was, in every respect, the same as that which he brought in in the last Parliament; I might say, which he very reluctantly brought in, for he has little taste for reform, and would never have undertaken such a task, if it had not been in a great degree forced upon him.¹ Among the most important clauses in the Bill was one for transferring the jurisdiction of the inferior Ecclesiastical Courts to the Consistory Courts of the Bishops; and another, requiring as a qualification for Judges in these Consistorial Courts that they should be practising advocates in the Court of Arches, or barristers of three years' standing, who had taken the degree of Bachelor of Laws in one of the English Universities; by which means clergymen would be excluded. Before the Bill went into a committee, however, Sir William told me that he had found it necessary to give up these two clauses, on account of the great dissatisfaction they had excited among the Bishops; and accordingly they were, in the committee, both struck out upon his motion. I opposed the striking them out, but of course without success. I gave notice, however, that I should, in a later stage of the Bill, endeavour to restore the qualification clause; and

¹ Vide *suprà*, pp. 233, 4.—ED.

accordingly, on a subsequent day, on my motion the Bill was recommitted, and the clause restored. Sir William opposed it, but did not divide the house; and privately both he and Sir John Nicholl told me, that it was a provision which they highly approved of; but Sir William said that he did not choose to incur the odium of being himself the author of it. I was very indifferent about this odium; and the Bill went up to the Lords with this clause in it, and with another, which, upon my motion also, was added in the committee, to limit to six years the time for bringing actions at Law, and suits in Equity, and in the Spiritual Courts, for the recovery of tithes. When the Bill had got into the House of Lords, I mentioned to the Chancellor that nothing had been added to the Bill, as Sir William Scott had brought it in, except the two clauses requiring qualifications in the Judges, and for the limitation of suits, for both of which I was answerable. The Chancellor said that they were both extremely proper. I apprized him, however, that it was very highly probable that the first of them would be opposed by the Bishops. Upon which he observed, "They had better not say anything about it, I can tell them." It gave me no surprise, however, afterwards to find, upon Lord Ellenborough and his brother, the Bishop of Chester, vehemently opposing the clause, that the Lord Chancellor very patiently acquiesced in its being struck out. When the Bill had passed through the House of Commons, Sir William Scott told me that it was a very great relief to him to have got rid of it, and that he had felt it as a perpetual blister upon him.

7th, *Wed.* I moved for returns of convicts upon the different circuits since 1809; returns I have twice moved for before,* and have never yet been able to obtain.†

8th. Henry Martin's Bill for regulating the office of

*Limitation of
actions and
suits for tithes
to six years.*

* I renewed this motion 8th Nov. 1813.

† On the same day William Smith moved to have the proceedings of a Court-martial on Colonel Orde laid before the House. I supported this motion.

registrar of the Admiralty, which had been opposed by Ministers and by Sir William Scott in former sessions of Parliament, was in this adopted by them, with some alterations suggested by Sir William Scott. In the committee, however, they proposed, and strenuously supported, and of course carried, a clause to postpone the operation of the Bill till after the death of the present registrar, Lord Arden, a lord of the bedchamber, and a constant supporter of Administration. This clause has so materially altered the Bill that it is now converted into a sanction and an authority for the very abuses which it was originally intended to suppress. The great object of the measure was to prevent the registrar from employing at interest for his own use the suitors' money deposited in his hands. To declare that this shall be prohibited only when the nobleman who now fills the office shall be dead, is to declare, in pretty clear terms, that such an employment of suitors' money, however inexpedient it may be, is not illegal. Indeed, Stephen, the Master in Chancery, though he denied that the Bill as altered would give any sanction to the practice, yet boldly maintained that the practice was legal and justifiable. He was the only man in the House who did this. The other supporters of the measure contented themselves with saying that the question was doubtful, and that the Bill would leave it so. Martin, and the other friends of the original Bill, were desirous, now that it was thus altered, that it should be given up. But Lord Castlereagh would not suffer this. We were compelled, therefore, on the third reading, which took place to-day, to oppose it, and we both spoke and voted against it. The division, however, both to-night and on a former night in the committee, took place in a very thin House; and the Ministers had, considering the numbers present, very large majorities. It is, indeed, on these occasions, on Bills which, though important, do not excite any great public interest, and which are protracted to a late period of the session, when the attendance of Members is much neglected, that Ministers derive from the present constitution of the House a very great advantage. There are thirty or forty minor placemen, Lords of the Treasury and of the

Admiralty, Paymasters, Treasurers of the Navy, &c. &c., who, having places only that they may vote in Parliament, are constant and regular in their attendance there; or who, if they happen to be absent, as they live very near to the House of Commons, may be collected together in a few minutes, while it requires as many hours to convene as large a number of independent members, or of adherents to the Opposition, from their distant abodes, scattered over a great part of the metropolis. After the Bill had passed,¹ Martin proposed to substitute, in place of the old title, one which would very correctly have stated its object, "A Bill to postpone all regulation of the office of Registrar of the Admiralty till after the death of George Lord Arden, and then to provide for the same."

22nd, Th. Parliament prorogued. The Speaker, on presenting to the Regent a Bill to enable the Crown to raise five millions for the service of Great Britain, took occasion to make a speech, in which he observed upon the principal Acts which have distinguished the present session; praising all the measures of Government, the treaties which have been entered into, our conduct towards America, the new scheme respecting India, and the new project of finance, which he described "as that which, by a judicious and skilful arrangement of our finances, would, for a considerable period, postpone or greatly mitigate the demands for new taxation, and at the same time materially accelerate the final extinction of the national debt." He then proceeded with this most extraordinary declaration:—"But these are not the only subjects to which our attention has been called. Other momentous changes have been proposed for our consideration. Adhering, however, to those laws by which the Throne, the Parliament, and the Government of this country are made fundamentally Protestant, we had not consented to allow that those who acknowledge a foreign jurisdiction should be authorised to administer the powers and jurisdictions of this realm."

The Speaker's speech on the last day of the session.

¹ By a majority of 36; the numbers being, for it 45, against it 9.—ED.

Delay in executing Insolvent Debtors' Act. Aug. 9th. A month has now elapsed since the Bill for the relief of insolvent debtors passed,* and the Lord Chancellor has not yet appointed a Judge of the Court, although, till that appointment is made, no person can take the benefit of the Act. There are about 3000 prisoners at this moment confined for debt in the different prisons of England and Wales. Every day, therefore, that the Chancellor delays the appointment is an additional day of misery inflicted by him on 3000 individuals; and of these many have wives and children to share their sufferings.†

20th. The Lord Chancellor ended his sittings, and on the next day I went to my house of Tanhurst.

Sept. 4th. I set out for Durham, and took my son John with me; we slept at Baldock.

14th. Returned to Tanhurst.

Oct. 21st. Went to Bowood Park, and stayed there till the 31st.

Vacation spent at Tanhurst. The whole of this vacation, with the exception of my journey to Durham, and the last ten days spent at Bowood, has been passed by me at Tanhurst.

It has been passed very delightfully. I have had Anne and all my children (except Edward, who is at school) with me. We have all been working four or five hours every day; my boys with their preceptor M. Chervet, and myself in reading, principally for my amusement, and in putting down in writing some observations on Criminal Law, which my constant occupations in town have long obliged me to postpone. I have been resuming, too, an account of my life,¹ which I began seventeen years ago, and discontinued. It is merely intended as a present amusement for myself, and as a memorial of me for my children when I shall be dead. I have also been answer-

* It received the royal assent 10th of July.

† The appointment was farther delayed till the 21st of September, when Serjeant Palmer was appointed the Judge.

¹ The second part of the narrative of his life. See vol. i. p. 29.
—ED.

ing some cases which I could not avoid taking, and which the press of my business had made it necessary for me to delay writing upon till this season of leisure. Great part of the rest of each day we spent in riding and walking about the enchanting country which surrounded us. We have had besides some agreeable visitors; my friend Dumont for several weeks; and for two or three days, at different times, Sharp, Bentham, Mill, Miss Fox, and Miss Vernon, and Scarlett, our neighbour. *Visitors.*

May I pass other vacations as pleasantly as this! The last ten days we have spent very differently, but still very agreeably, in a large society which we have met at Bowood, where Anne, and William, and myself have been on a visit to Lord and Lady Lansdowne. Madame de Staël,* her son and daughter, the Count Palmella, Sir James Mackintosh, Rogers (the poet), Mr. and Mrs. Abercromby, Captain and Lady Elizabeth Fielding, Mr. Hort, Mr. Newnham, Mr. Napier, Mr. Ward, and Dumont, were there, though not all of them during the whole time.

Nov. 3rd, Wed. News arrived of the great victories obtained by the Allies over Bonaparte in the battles of Katzbach, Kulm, Denewitz, and Leipzic, and of the taking of Leipzic.

4th, Thurs. The session of Parliament was opened. The Prince went to the House of Lords, and opened the session in person. I saw him returning. A dead silence prevailed; no huzzas; very few hats were taken off.†

6th, Sat. The first day of term. At the Lord Chancellor's, Lord Ellenborough came to me, the moment he saw me come into the room, to exclaim against Lord Redesdale's Insolvent Debtors' Act; which, he said, was nonsense and unintelligible, and could not be executed. *Lord Redesdale's Insolvent Debtors' Act.* It would be proper, he said, immediately to pass a tem-

* Madame de Staël has mentioned this visit of hers in the third volume of her "*Considérations sur les Principaux Événemens de la Révolution Française*," published after her death in 1818.

† I have been told that the same thing happened when the Regent went, in last July, to prorogue the Parliament.

porary Insolvent Debtors' Bill, on account of the number of prisoners whose expectations had been raised by the present Act. As for Lord Redesdale, he said, he ought to be put in a straight waistcoat. I told him that I did not consider myself as at all answerable for the Bill; that as he and the Lord Chancellor had objected to former Bills of Lord Redesdale for the same purpose, and had suffered this one to pass, I had conceived it, and had treated it in the House of Commons, as sanctioned by him. He said he had suffered it to pass because he was weary of opposing such Bills; and he had been given to understand that all the defects in it were to be removed in the Commons. To this, I said, that I did not believe that Lord Redesdale had communicated with any Member of the House of Commons on the subject of the Bill, except * * *. He said he knew * * *, and that he was a great fool. I did not contradict his lordship.

11th, *Thurs.* I presented a petition to the House of Commons from the prisoners in the Fleet, complaining of the delays which had taken place in executing the Insolvent Debtors' Act.

14th, *Sun.* A weekly paper of to-day (the *Examiner*) contains a comparison between the Attorney-General and me, much too favourable to me.*

19th, *Fri.* Lord Ellenborough, in the House of Lords, ^{Insolvent} intimated an intention of bringing in a Bill to ^{Debtors' Act.} repeal the late Insolvent Debtors' Act, which he is pleased to say is impracticable; and another Bill for the immediate relief of the present insolvent debtors.

21st, *Sun.* Intelligence arrived of the late revolution in Holland.

22nd, *Mon.* I presented a petition to the House of Commons from certain foreigners confined for debt in the King's Bench Prison, praying that the benefit of the late Insolvent Debtors' Act, from which they are now excluded, may be extended to them. I took occasion, on presenting this petition, to notice the intention which had

* It has been since published in a little work, entitled, " *Parliamentary Portraits*, 1815."

been intimated to repeal this Bill. I said that I hoped that, before any step was taken towards repealing it as impracticable, the House would be informed in what respect it was impracticable; that, however defective the Act might be in some of its provisions, I had no doubt that these defects might easily be removed: that it would be very strange if no means could be devised to make effectual a measure which only applied the principle of bankruptcy, or *cessio bonorum*, to all debtors.

24th, *Wed.* An account arrived of the old Government of Hanover being restored.

29th, *Mon.* Hiley Addington, the Under Secretary of State, brought in a Bill to continue for a year longer the Act, passed two years ago, to punish with death the offence of maliciously breaking stocking or lace frames. The Act was passed at a time when great tumults prevailed, and violent outrages had been committed in Nottinghamshire and some of the adjacent counties; which had been produced in a great degree, if not entirely, by the declining state of the manufactures and the distresses of the people. The causes of passing the Act having been temporary, and having now for a long time ceased, the most perfect tranquillity prevailing in every part of the country, and the manufactures being very flourishing, I opposed the Bill,* and divided the House against it:—37 for the Bill, 20 against it.†

The next day Hiley Addington postponed the further progress of the Bill; and on

Dec. 3rd, *Fri.* The Attorney-General said that in the Committee he should move to take away the capital punishment, and to substitute in the place of it transportation for life, or a lighter punishment, at the discretion of the Judge, and to make this new Act a permanent law.

* In the Committee on the Mutiny Bill on the same day, I again in vain attempted to obtain a declaration of the Judge-Advocate and the Secretary at War against the practice of bringing out soldiers to be flogged a second time, after as many lashes have been inflicted in the first instance as the offender could endure.

† This was the only division which took place before the long adjournment to March.

I objected to legislating permanently on the subject, without more consideration.

Lord Redesdale's Bill to amend his late Insolvent Debtors' Act was read in the Commons to-day a second time. Something having been said by a member upon the principle of the former Act, I took this opportunity of stating that the law respecting the enforcing the payment of debts required, in my opinion, great amendment; that, while our laws were very severe as far as they gave a remedy against the person of the debtor, they were very relaxed as they supplied remedies against his property; and that there was no reason why a debtor's freehold and copyhold estates should not be taken in execution and sold for the payment of his debts, or why money in the public funds, and other property of the same kind, should not be made applicable to pay the demands of the creditors who sued him.¹ I mentioned, too, how reproachful it was to our law that writs of error for the mere purpose of delay should be permitted; and suggested that, before a writ of error was allowed a certificate should be required, signed by two counsel, signifying that in their judgment there was error in the record.² I gave notice, too, of my intention, after the Christmas recess, to move for leave to bring in a Bill to subject the freehold estates of persons who die indebted to the payment of their simple contract debts.

4th, Sat. In the last term there were several changes in the law. M'Donald, the Lord Chief Baron of the Exchequer, resigned on account of his sight failing him, and Gibbs was appointed to succeed him. Dallas, the Solicitor-General, succeeded Gibbs as a Judge of the Common Pleas; and the Solicitor-Generalship, after having been offered to Leach and Serjeant Lens, who both refused it, was given to Serjeant Shepherd. Serjeant Best succeeded Shepherd as Solicitor-General to the Prince.

¹ These opinions have received the sanction of law. See 1 and 2 Vict. c. 110.—ED.

² This is now prevented, by 6 Geo. IV. c. 96, which requires bail to be given in cases of writs of error.—ED.

20th, *Mon.* The Commons adjourned to the 1st of March, on the motion of Lord Castlereagh. Sir James Mackintosh moved, as an amendment, that the adjournment should be only to the 23rd of January. He introduced his motion by an extremely good speech, which was, however, very coldly received by the House. I supported the amendment, on the ground that the Commons had no right to put it out of their own power, for so long a period, to do their duty towards their constituents; and that, by the sitting of Parliament being postponed to so late a period, it would be impossible that the business which came before the House could be properly done. I mentioned the press of business with which the House was generally encumbered towards the close of the sessions; forty or fifty orders of the day crowded into a single night, and Bills of great importance passing through their different stages at two or three o'clock in the morning, when it became impossible to object to them with any hope of being attended to. Whitbread and some others had said that they should vote for the long adjournment, because the Ministers had by their recent conduct entitled themselves to such a proof of confidence: upon which I observed, that the adjournment had not been proposed by the Ministers on any such ground, or on any other ground than that the state of public business made it unnecessary that Parliament should meet earlier; that, whatever confidence Ministers be thought entitled to, the Commons suspending their own functions was not the proper way to manifest that confidence; and that we had no authority from our constituents to take such a step. If the sitting of Parliament was to be long suspended the constitutional mode of proceeding was for the King to prorogue it, or to send a message to the Houses of Parliament, to desire them to adjourn: such a measure always proceeding upon the responsibility of Ministers. There was no division.

24th, *Fri.* The Lord Chancellor's sittings ended.

26th, *Sun.* I went with my dear Anne and all my children to Tanhurst, and stayed there till Jan. 9.

1814.

Jan. 9th, Sun. I returned to town, the Chancellor being to commence his sittings on the next day.

For the first seven days of our being at Tanhurst, we had the finest weather imaginable, a bright sunshine not interrupted by a single cloud; while London and the country many miles around it were, for the greatest part of the same time, involved in some of the thickest fogs ever remembered. We had afterwards a very heavy fall of snow.*

24th, *Mon.* I dined at the British Coffee-house with the members of the Fox Club, it being the anniversary of Mr. Fox's birthday. This is the third year that I have been invited by the club, and that I have been present at this anniversary dinner. Previously to 1812 I never was invited to it.

Feb. 12th, Sat. Sir James Mansfield, the Chief Justice of the Common Pleas, has, during the whole of this term, been prevented by illness from attending in Court; and, as he is in his 80th year, there have been various reports of his intended resignation, and of the promotions which are to take place in consequence of it. Sir Vicary Gibbs, it seems agreed on all hands, is to succeed him; but who is to succeed Gibbs as Chief Baron seems not a little doubtful. For some time it was considered as quite settled that it was to be the Attorney-General, *Sir William Garrow*. and he has himself talked very confidently about it, has made inquiries respecting the probable state of business upon the different circuits, and has observed that it would be an affectation in him to be silent upon what everybody else was speaking of. How well quali-

* This frost was very severe, and lasted several weeks; and in the beginning of February the Thames was frozen over, and many hundred persons walked across it between London and Blackfriars Bridges.

fied he is to preside in a Court, in which all questions respecting the rights of the Crown in matters of property are decided, may be conjectured from what passed last summer in the House of Lords. On the claim to the Earldom of Airlie, which came on in last July, I, as counsel for the claimant, had endeavoured to remove the objection which had been taken by some of the Lords, particularly Lord Redesdale, that the title had become forfeited by the attainer of Lord Ogilvy in the year 1715. The question was, whether a Scotch entailed title of honour was forfeited by its devolving on an attainted person subsequent to his attainer ; or whether (as I had to contend) it was merely suspended during his life, and on his death came to the next heir of entail. Garrow, as Attorney-General, on behalf of the Crown, had to answer Adam's and my argument. Perceiving, from his observations to me while the claim was depending, how little he knew of the matter, I was curious to see how, when it came to him to speak, he would extricate himself from his difficulty. He did extricate himself, but in a way for which I certainly was not prepared. He appeared at the bar of the House of Lords with a written argument, the whole of which he very deliberately read, without venturing to add a single observation or expression of his own. In the Stafford peerage, which stood for the same day, he did exactly the same thing. He merely read an argument which somebody had composed for him ; and none of the Lords were malicious enough to interrupt him, or to put any questions to him on any of the doctrines which he had to maintain. I have since been informed that both these arguments were written by Hobhouse, one of the solicitors of the Treasury. A very new sort of exhibition this by an Attorney-General ! Two days afterwards, in the Court of Chancery, on a question whether a manager of a theatre could discharge the duties of his office without personal attendance, I, who had to argue that he could not, said that it would be as difficult as for a counsel to do his duty in that Court by writing arguments, and sending them to some person to read them for him. The Lord Chancellor interrupted me by say-

ing, "In this Court or in any other?" And after the Court rose, he said to me, "You knew, I suppose, what I alluded to? It was Garrow's written argument in the House of Lords." So little respect has his Lordship for an Attorney-General whom he himself appointed because he was agreeable to the Prince.

26th. Sir James Mansfield has recently resigned the Chief Justiceship of the Common Pleas, and has been succeeded by Sir Vicary Gibbs, the late Chief Baron of the Exchequer. Mr. Baron Thomson has been appointed Lord Chief Baron; and this day Mr. Richards was sworn in a puisne Baron of the Exchequer. The Attorney-General has succeeded Richards as Chief Justice of Chester.

March 1st, Tu. The two Houses of Parliament met, *Adjournment of the Houses of Parliament.* and, upon an intimation given in each House that it was the desire of the Regent, they adjourned to the 21st of March. Little opposition was made in either House, though the consequence of the Session of Parliament being postponed to so late a period is, that little more will be done than to pass the Bills brought in by Government, and to pass private Bills. Having stated my objections to this before, I did not think it necessary to say anything now. This was not the spontaneous adjournment of the House; but it took place in consequence of an intimation for which Ministers are responsible; and, if the motion to adjourn under such circumstances had been rejected, a prorogation must have followed, which would be attended with still greater inconveniences.

On a writ being moved for, on account of Garrow *Attorney-Gen.* having vacated his seat by accepting the *Chief Justiceship of Chester,* I said that the appointment which had given occasion to the motion was one which appeared to me to be so objectionable, that I thought it my duty to draw the attention of the House to it. The independence of the Judges had, ever since the Revolution, been considered as of the utmost importance; and, early in the present reign, it had been declared from the throne, that His Majesty considered their independence as essential to the impartial administration of justice, as

the best security for the liberties of the people, and as highly conducive to the honour of the Crown. These sentiments had been applauded, adopted, and re-echoed by the House; and yet the impartial administration of justice, the liberty of the subject, and the honour of the Crown, were surely all overlooked, when a person holding a very lucrative situation, from which he was removable at the pleasure of the Crown, was appointed to the office of Judge. The offices of Judge and of Attorney-General were incompatible. The public prosecutor ought not to sit in judgment on public prosecutions; and the servant of the Crown, whose duty it was to assert the rights of the Crown against the subject, whenever those rights came into litigation, ought not to be seen administering justice between the King and the people.* I said that I desired not to be understood to make these observations with any personal hostility towards Sir William Garrow; that he had only done the same thing as two of his predecessors (Lord Kenyon and Lord Alvanley) had done before him; and that undoubtedly, when a gentleman filled the office of Attorney-General, he had a right to expect, and the public too was to expect, that he would be promoted to the highest judicial offices when they became vacant. My observations were extremely well received by the House, but not a word was said in answer to them. This is but a very short statement of the substance of my speech, but it contains every word that I said of Garrow. *Sir William Garrow.* I was not a little surprised, therefore, to receive from him the next day the following note:—

“ My dear Sir,

“ 2nd March, 1814.

“ I was unfortunately not in the House yesterday when the writ was moved in consequence of my recent appointment, but I feel myself bound, in consequence of the communications of several friends, to request your

* On the first circuit that Sir William Garrow went, there were four causes to be tried on questions relating to the enclosure of Delamere Forest, in which the Crown had an interest; and which, for that reason, Garrow declined to try; and after he had left the town, they were tried by Burton, the puisne Judge.

acceptance of my sincere and grateful thanks, for the very kind and handsome manner in which you were so good as to express yourself respecting me.

“ I have the honour to be, with real respect and esteem, dear Sir, your obliged faithful servant,

“ W. GARROW.”

I take for granted that he was not in the House, but I had seen him and spoken to him under the gallery, about half an hour before the writ was moved for.

5th, *Sat.* I had occasion to see the Lord Chancellor this morning respecting some business depending *The Lord Chancellor.* before him in his Court. As I was leaving him, he said, “ This is very bad news which has arrived” (alluding to the retrograde movement of the Allies, and the armistice requested by Prince Schwartzenburg); and he added, “ This comes of people attempting too much.” These words are not a little remarkable, because the Chancellor has been always supposed to be the person who, in the Cabinet, has been most eager in promoting the known wishes of the Prince, and in endeavouring to prevent the Allies from making peace with Bonaparte. Is it the expression of real regret; or was it said to disguise what have been his sentiments?

23rd, *Wed.* I moved in the House of Commons for and obtained leave to bring in Bills to take away corruption of blood, and to alter the punishment of high treason. Charles Yorke alone opposed the motion.

31st, *Th.* I moved for and obtained leave to bring in a Bill to subject the freehold estates of persons who die indebted to the payment of their simple contract debts.

April 2nd, *Sat.* News arrived of the negotiations for peace having been broken off.

5th, *Tu.* News that Paris capitulated to the Allies on the 30th of March.*

* *Mar. 30th.* Paris capitulated.

31st. The Emperor of Russia, the King of Prussia, and Prince Schwartzenburg, the Austrian general, enter Paris, and invite the Senate to name a provisional Government.

April 1st. Five persons are named by the Senate as such pro-

7th, *Th.* That the Emperor of Russia and King of Prussia had entered Paris; that the Parisians had appointed a provisional Government, who were to frame a new Constitution; and that the Bourbons were restored. Thus, as if by enchantment, peace seems to be restored on a sudden to Europe.

I set out this day for Tanhurst; remained there during the Easter holidays, till *Thursday, April* 14th, when I returned in the evening, the Privy Council being to sit the next day on an appeal in which I am engaged.

I passed a most delightful week at Tanhurst, with my dearest Anne, and all my children but Edward, whom we were afraid to have home, as Frederick and Charles have lately had the scarlet fever.

From Leith Hill we saw, on Easter Tuesday, at night, the light of the illuminations of London on account of the recent events at Paris.

22d, *Fri.* Lord Morpeth moved a resolution to-day in the House of Commons, which implied a censure on the Speaker, for the speech made by him at the bar of the House of Lords, on the last day of the last session.¹ It was perhaps a more gentle reproof than his conduct deserved. In the debate, however, which took place on it, he was treated with great severity. It was, indeed, a debate of a very novel character. The Speaker seemed fixed in his chair only to be reprimanded, for six hours together, by every member successively that chose. The resolution was lost by a majority of 274 to 106.

visional Government, with instructions to draw up the plan of a Constitution.

2nd. The Senate declare that Napoleon Bonaparte and his family have forfeited all right to the throne.

6th. The Senate adopts the Constitution proposed by the provisional Government, and decrees that it shall be submitted to the French people.

On the same day Napoleon signed his abdication at Fontainebleau.

12th. Monsieur entered Paris.

¹ Vide *suprad.* p. 321.—ED.

Bill to take away corruption of blood. 25th, Mon. My Bill to take away corruption of blood went into a committee, in which Mr. Yorke proposed two amendments to the Bill, one to prevent its extending to treason, and the other to murder; and he carried both his amendments, though by very small majorities. Upon the first, 42 to 37; upon the second, 31 to 29. A debate took place on the general principle of the Bill, which lasted several hours.

Punishment of high treason. In the Committee on the Bill to alter the punishment of high treason,* Mr. Yorke proposed that, after the execution, the head of the convict should be cut off. I expressed my disapprobation of this, but did not divide the Committee, and the amendment was carried.

Bill to subject freehold estates to the payment of simple contract debts. 29th, Fri. Serjeant Best, upon the motion for the House to resolve itself into a committee on the Bill to subject freehold estates of deceased debtors to the payment of their simple contract debts, opposed the further progress of the Bill, and was supported in that opposition by Wetherell, Serjeant Shepherd (the new Solicitor-General), and Mr. Giddy. The Bill was defended by Preston (the conveyancer), Sir Arthur Piggott, Lockhart, and Stephen (the Master in Chancery), who made an excellent speech. I also spoke in support of it. The Bill was carried by a majority of 61 to 37.

May 12th, Th. I voted in the minority on the address respecting Norway.¹

13th, Fri. Serjeant Onslow's Bill to repeal the Act of 5 Eliz. c. 4, which prohibits, under penalties, the exercising of trades by persons who have not served a seven years' apprenticeship, came on upon the second reading. There has been a great clamour raised against the Bill. Associations have been formed to resist it, in different towns, by the apprenticed

* Vide *infra*, p. 344.

¹ To rescue the people of that country from the alternative of famine, or of subjection to the foreign yoke of Sweden.—ED.

journeymen, who are anxious to retain their monopoly. Numerous petitions against the Bill have been presented, signed by a great many thousand persons; and as, in Bristol and other trading towns, a very large proportion of the voters are freemen, entitled to their freedom by having served apprenticeships, it is not surprising that the opposition of these petitioners should be earnestly supported in the House. I have myself been eagerly canvassed against it by a very large body of artisans and manufacturers in Bristol who voted for me at the last election, and by a London association. Sir Frederick Flood moved, as an amendment, that the second reading should be postponed for six months, and Mr. Protheroe, one of the Members for Bristol, seconded that motion. In the course of the debate I spoke in favour of the Bill, and, as soon as I had concluded, Sir Frederick Flood desired permission to withdraw his amendment, and said that he should not object to the Bill going into a committee. It was therefore read a second time.*

29th, to *June* 2nd. I spent the Whitsun holidays with my family at Mr. Nash's, at Cranbourne Lodge, in Windsor Park.¹

* There was some opposition in the subsequent stages of the Bill, but the House was never divided upon it, and it passed the Commons. It afterwards passed the Lords with scarcely any opposition.

¹ The following letter to M. Dumont, who was then at Geneva, was written from London on May 26th.—ED.

“ Dear Dumont,

“ I cannot thank you too much for your attention and kindness to W. Your account of him gave us the greatest pleasure. His attachment to you I shall always think the best security for his doing well. Though Madame de Staël had not delivered to you the packet she took charge of when you last wrote, I hope she afterwards recollected it, and gave it you. Besides my letter, it contained one from Brougham, which he was anxious you should see while you were at Paris, and another from Miss or Mr. Edgeworth (I know not which). This last was accompanied, when I received it, by a pretty thick parcel of papers, from which I separated the letter. It was lucky I did; for I soon afterwards had a note from Mr. Edgeworth, desiring me not to forward the papers to you, and telling me that they contained a critique on ‘*Peines et Récompenses*,’ which he wished me, if I could, to get inserted in the *Quarterly*

6th, Mon. The treaty of peace recently concluded with France was communicated to the Houses of Parliament. It contains an article by which the King of France, after acknowledging the slave-

Treaty of peace with France. *Review*, without letting it be known from whom it came. I have taken steps for this purpose through Mackintosh, but I doubt whether I shall succeed. The great obstacle to its admission into the *Quarterly Review* will be, I fear, its merit. It contains a defence, and I think one of the plainest and most familiar, and therefore the best that I have seen, of what Gifford, Southey, and the other writers in the *Quarterly* hold in such horror—the principle of utility; and holds up to just ridicule and contempt Kantism and all its concomitants. The first sentence of the article is a very strange one. 'When an Englishman and a Frenchman agree upon any point,' says a witty philosopher, 'there is a strong presumption that they are right,' or something to that effect. This, I suppose, is intended effectually to conceal that the article is written by a friend of yours. For what other purpose you can be converted into a Frenchman I don't know; and neither the witty philosopher nor any other philosopher would be surprised to find that a Genevieve and an Englishman thought alike on a great many subjects.

"I send you an account of the debate on my Bill to take away corruption of blood. It is more accurate than such accounts generally are; several of the speeches, and amongst others Mackintosh's and mine, having been corrected by the speakers. There is great modesty in this avowal, for mine is certainly but a poor speech; Mackintosh's is excellent. I send two copies, that William may have one; he heard the debate, and if the variety of objects he has since seen have not driven it entirely out of his head, he will be able to judge of the correctness of the report. Nothing has passed in Parliament since you left us, except the debate on Norway, in which (as has been the case ever since the present Ministry came into power) all the argument was on one side, and the great majority of numbers on the other. The best speech made on the subject in the House of Commons was Mackintosh's; and everybody says that it showed very extraordinary powers of reasoning and of eloquence. I did not hear it, and therefore speak of it only from the report of others.

"Our Prince is not quite in such high spirits as he was in a little while ago. The arrival of the illustrious visitors he expected is put off for the present, and some difficulties have arisen about the Princess Charlotte's marriage, which have made it necessary at least to postpone it. The intended bridegroom, in the mean time, is living in lodgings at a tailor's in great obscurity, and with no appearance of opulence. The Duchess of Oldenburg has fallen into great disfavour. She is supposed to have given bad advice to the Princess Charlotte, and she was guilty of the indiscretion of paying a visit to

trade to be repugnant to principles of natural justice and to the enlightened times in which we live, engages to unite all his efforts to those of his Britannic Majesty at the approaching Congress, to induce all the powers of Christendom to decree the abolition of that trade, so that it shall cease universally ; as it shall cease definitely under any circumstances, on the part of the French Government, in

Whitbread at his brewery. The Prince has since said to her, that he supposes when she goes to Paris she will make a point of seeing Santerre. The great object of his Royal Highness at present, is to prevent the Princess going to the Queen's drawing-room, and being present at any of the festivals which the different clubs are about to give upon the restoration of peace. It is hardly credible what pains he has given himself to accomplish this noble purpose. He has written a letter to the Queen, in which he tells her that he has come to a determination never to be in the same room with the Princess ; and he therefore desires her Majesty to take care that the Princess is not at the drawing-room. The Queen has accordingly signified this to the Princess, and the Princess in revenge means to publish the letters. Is not the condition of this nation a happy one when these are our most important public events ? In the mean time, however, the war with America still continues, and we seem to have got to be so much accustomed to war, and to consider it as our natural condition, that it is certainly not unpopular. The *Times* newspaper, having no Bonaparte to rail at, pours forth all its gross abuse upon the Americans, and would fain excite the nation to conquest, and to every species of injustice and extravagance.

“ Bentham is, I am afraid, about to engage in a speculation respecting the mills at Lanark, in Scotland, which is to have the double object of making the fortunes of those who engage in it, and of extending education and instruction among the lower orders of the people. I endeavoured strongly to dissuade him from it, thinking that, at his time of life and in his situation, it was great folly to embark in any concern which, by possibility, no matter how remote, might involve him in difficulty and in distress, and ultimately in ruin. All my good advice, however, only made him very angry ; as if he did not know how to manage his own affairs, as if he wanted advice, or was to be treated like a child, &c. &c. I told him that the man who was engaging him in this, though very well-intentioned, was really a little mad. To which his answer was, ‘I know that as well as you ; but what does that signify ? He is not mad *simpliciter*, but only *secundum quid*.’ Finding nothing was to be done, I took my leave of him, contrived to make him laugh, and put him at last in good humour by telling him that, though he would not take my advice, he might depend upon it that, when he was an uncertificated bankrupt, I would not turn my back upon him.”

the course of five years ; and that, during that period, no slave merchant shall import or sell slaves, except in the colonies of the state of which he is a subject.

This article is a cruel disappointment of the hopes entertained by most people that so favourable an opportunity for the immediate and total abolition of the slave-trade by all the powers of Europe would not have been lost. The address to the Regent, unanimously voted by the House of Commons on the 3rd of May last, and a similar address by the Lords, had greatly heightened these hopes.

8th, *Wed.* I have been much concerned at not discovering any probability of a demonstration of public opinion on the subject of the article in the treaty respecting the slave-trade. Not finding any step likely to be taken, I mentioned to-day in the House of Commons to Whitbread and Horner, that it appeared to me of the utmost importance that something should be done without delay. They agreed with me, and in the House I wrote a letter to the Duke of Gloucester, as President of the African Institution, requesting that a meeting of that society should be immediately called. They together with me signed the letter, and I afterwards sent it to Stephen and Whishaw, and got their signatures to it. The next day I took it myself to the Duke of Gloucester, and he immediately appointed a meeting of the directors for Monday next.

13th, *Mon.* The meeting of the directors of the African *Slave-trade.* Institution was very numerously attended. Being, at the commencement of the meeting, the only person present of those who had desired it to be called, I proposed that there should be called, with as little delay as possible, a general meeting of all the friends of the abolition, for the purpose of coming to resolutions on the subject, and petitioning the Regent or the Parliament. A few members doubted the expediency of this. Mr. Villiers, a warm friend to the abolition, but a zealous supporter of Government, and Wilberforce, who is always afraid of giving offence to Ministers, suggested that the meeting might have the appearance of a measure of opposition ; that there was no saying what violent resolutions might not be proposed at it ; and that it was very much to be feared that, at

the present moment, when the public attention was wholly engrossed with the Emperor of Russia and the King of Prussia, and the processions, and shows, and entertainments which their visit had occasioned, few persons would be found to attend such a meeting, and that an unsuccessful appeal to the public would do much harm instead of good. A great majority of us, however, were for having the meeting called, and Wilberforce and Villiers, together with the rest of us, signed the advertisement calling it together.

17th, *Fri.* The meeting* took place to-day at Free-masons' Hall, and was extremely crowded. The Duke of Gloucester presided. Resolutions were come to, and were supported in some very forcible speeches by Wilberforce, Lord Grey, Whitbread, Lord Lansdowne, and Lord Holland. Petitions to both Houses of Parliament were determined on ; and it was recommended to call meetings in different parts of the country. I made a short speech on moving the thanks of the meeting to the chairman, the Duke of Gloucester.

18th, *Sat.* Was the grand dinner given at Guildhall to the Regent, the Emperor, the King of Prussia, &c. I was invited, but did not go. Instead of it, I dined with Alexander Humboldt, the traveller, at Lansdowne House ; and the next morning he breakfasted with me. He is here as Great Chamberlain of the King of Prussia, and leaves this country at the same time as the King.

20th, *Mon.* Wilberforce had fixed this day for moving an address to the Regent on the subject of the slave-trade. It was extremely desirable that it should come on, because the Emperor and the King of Prussia had signified their intention of going this day to the two Houses of Parliament ; and it was very much to be wished that they should be present during the debates. Lord Castlereagh, however, was, or pretended to be, indisposed : and Wilberforce put off

* This meeting produced a great effect. The example was followed in most of the great towns in England ; and more than 800 petitions were, in little more than a month from this time, presented to Parliament against the slave-trade, signed by above 750,000 persons.

his motion for a week. The King of Prussia and his sons first, and afterwards the Emperor of Russia, with his sister the Duchess of Oldenburg, came into the gallery of the House of Commons, and for some time witnessed what passed. The King of Prussia first went into the Lords, but the Emperor did not arrive till the House of Lords was up.

Lord Erskine told me on Saturday that he should certainly bring on my Bills, which he has taken charge of, on this day. He had not however given any notice of his intention, or required that the Lords should be summoned ; and though he formerly presided in the House as Chancellor for above a year, he was ignorant, till he learned from me with surprise and evident mortification, that a previous notice was, according to constant usage, necessary before he could move the second reading of any Bill.

26th, Sun. Prince Radzivil and the Count de Sierakowski dined with me to-day : Prince Adam Czartoryski would have accompanied them, but he had a previous engagement. It was on his account indeed that I invited the others. I got Lord Grey, Whitbread, Lord Ossulston, Bennet, and Brougham to meet them. It was at Brougham's instance that I have made acquaintance with these persons. They justly think it very important that, in the discussions which are soon to engage the public attention, the present situation and future fate of their country, Poland, should not be overlooked ; and, in consequence probably of something Brougham has said, they wished to know me.

27th, Mon. Wilberforce brought on his motion on the slave-trade. Before making it, he presented the petition which had been proposed at the meeting at Freemasons' Hall, and which was signed by above 39,000 inhabitants of London and Westminster : a similar petition was presented to the House of Lords by the Duke of Gloucester. Clarkson told me that the petition was signed by 25,000 persons in one day, and that, if it could have been delayed three or four days longer, 80,000 signatures would have been put to it. Many other petitions were presented. Wilberforce's motion was not opposed ;

but Lord Castlereagh took this opportunity to explain, and to attempt to justify, his conduct with respect to this article of the treaty.

In the House of Lords, Lord Grenville moved for the papers respecting this subject, which had passed during the negotiation. The motion was resisted, and negatived upon a division.

28th, Tu. Horner, in the House of Commons, made the same motion as Lord Grenville had done yesterday in the Lords. I supported his motion at considerable length, and expressed my strong disapprobation of this article of the treaty in a speech which was remarkably well received by the House.*

Before this debate, Sir John Newport moved an address to the Regent, to grant a commission to inquire into the fees taken in courts of justice in the United Kingdom. Lord Castlereagh and the rest of the Ministers opposed it. The Attorney-General said, that there was not any ground whatever to suppose that any improper fees were taken in any of the law offices. Master Stephen spoke pretty much to the same effect; and the Attorney-General, amongst other things, insisted that the practice of taking fees for expedition, which had been mentioned, *Illegal fees in courts of justice.* was one that certainly had no existence. I said that I was very sorry that I could not bear the same testimony to the universal purity of the different law officers that he had done. That, if compelled to say what I believed (though I was not prepared to prove particular instances at the bar of the House), I must in my conscience say, that I believed that, at least in the court which I was best acquainted with, the practice did exist to a considerable extent. Stephen expressed the greatest astonishment at this; but, in consequence of my assertion, voted for the motion which he had by his speech opposed; and by his single vote it was carried, the numbers being 49 to 48. A commission therefore must issue; and, if the inquiry is properly prosecuted, no doubt very great abuses will be brought to light.

* I afterwards printed this speech.

29th, *Wed.* The treaty came under discussion in the House of Commons. I had neither opportunity nor much inclination to say anything on it; but I entreated Ponsonby, who was not much inclined to speak either, to say a few words, if it were only for the sake of drawing the public attention to the state of Poland. He did accordingly express, very shortly, but very forcibly, his anxious hope that this country would not neglect the interest of that unhappy nation at the approaching congress.

July 5th, Tu. Lord Cochrane, having been convicted *Lord Coch-
rane.* with several others of a conspiracy fraudulently to raise the price of the public funds, was expelled the House of Commons by a very considerable majority. I took no part in the debate, and did not vote. If I had voted, it would have been against him; but, as I arrived at the House only time enough to hear but a small portion of his speech, I did not think it right to take any part. I do not see any reason to doubt his being guilty, but great reason to doubt his having been impartially tried; and the sentence upon him has been inordinately severe—a fine of 1000*l.*, a year's imprisonment, and the pillory. The enormity of this punishment has excited an interest in Lord Cochrane's favour, which would never have appeared if his sentence had been at all proportioned to the offence. Many persons have expressed a wish that the punishment of the pillory should be abolished; and it unquestionably ought to be abolished. There is not, however, the least probability that, if a Bill were brought into Parliament for that purpose, it would pass into a law.

13th, *Wed.* I opposed, with a very few other persons, the *Irish Insur-
rection Bill.* Bill* lately brought into the House by Peel (the Irish Secretary), which is to give extraordinary powers to the magistrates in Ireland, and enable them, without a jury and without any bill of indictment found against them, to transport as felons persons who, in counties proclaimed as disturbed, shall not be found in their

* This was a revival of the Bill of 1807, which was repealed in 1810, on the motion of Wellesley Pole (the Secretary for Ireland), a short time before it would have expired, and had never since been revived.

houses after a certain hour, and shall not be able to prove that they were absent on some lawful occasion. There has not been any committee appointed, nor any evidence produced of the facts which are stated as the grounds for bringing in this Bill.*

16th, *Sat.* Lord Cochrane was re-elected to represent the city of Westminster. Many persons have *Lord Cochrane.* persuaded themselves that he is innocent. No *rane.* other candidate was put up. Sheridan had announced an intention of standing, but withdrew his claims, and told several persons that Lord Cochrane was the only man in the kingdom he would not oppose.

17th, *Sun.* I called this morning on the Duke of Sussex at his request communicated to me about a week ago. It was respecting the Princess Charlotte of Wales that he wished to speak to me. *Duke of Sussex and Princess Charlotte of Wales.* After his message sent to me, her Royal Highness, having all her attendants dismissed, and being told she was immediately to remove to Carlton House, had run out of her house, and getting into a hackney coach, had driven to her mother's. The Duke of Sussex and Brougham had persuaded her to go to Carlton House. The Duke told me that he had already decided what step it would be proper for him to take; and that he had accordingly written a letter to Lord Liverpool, remonstrating upon the treatment the Princess had received, desiring to know whether it was by the advice of the Ministers, and requiring that he might have access to the Princess; and that he was then waiting for an answer to it. He put a few questions to me respecting the time when the Princess would be of age, the Prince her father's power over her, &c.; and related some curious facts respecting the late intended marriage of the Princess with the hereditary Prince of Orange; but he asked me no advice.

18th, *Mon.* The Princess was removed this morning to Cranbourne Lodge, in Windsor Park.

My Bill to subject freehold estates to the simple contract debts of persons who die seised of such estates, *Freehold Estate Bill.* was thrown out by the Lords on the third read-

* *Vide* st. 54 Geo. III. c. 180.

ing, without a division. It was opposed by the Chancellor, Lord Ellenborough, and Lord Redesdale, and by the Duke of Norfolk. It was supported by Lord Erskine and Lord Holland.

19th, *Tu.* The Duke of Sussex gave notice, in the House of Lords, of a motion on the subject of the Princess, he having put several questions to the Ministers relating to her, which they declined answering.*

20th, *Wed.* I again opposed the Irish Insurrection Bill.

25th, *Mon.* The House of Lords having returned my *Corruption of* two Bills to take away corruption of blood, and blood. to alter the punishment of high treason, with amendments, I this day moved in the Commons that the House should agree to the amendments, which was carried as of course. The alterations in the Corruption of Blood Bill are, to substitute in the place of taking away corruption of blood the taking away all the effects of corruption of blood, except with respect to the attainted person during his life only ; and to prevent the Bill operating in

Punishment of treason. cases of accomplices in murder. The Treason Bill has many alterations of form, but the only substantial alteration is, to preserve as part of the sentence, that the body of the criminal after he is dead shall be severed into four quarters.¹ When I moved to agree to the amendments, I stated my strong disapprobation of this amendment. I said that either this punishment was not to be executed, and then it ought not to continue part of the formal sentence, or it was intended that in some cases it should be executed ; and, if so, that, in my opinion, such horrible spectacles as that of mangling a body from which the vital spirit had just departed, before a crowd of spectators, tended only to deprave their minds and to harden their hearts : that, however, I proposed to agree to the amendments, because, as the Lords had consented that it should no longer be the law that the heart

* He afterwards, by the advice of Lord Grey, abandoned his intended motion.

¹ The law so remains in the present day.—ED.

and bowels of a man convicted of treason should be torn out of his body while he was yet alive, I thought that what the Lords had allowed us to pass was worth obtaining.

The Lord Chancellor, in a note he wrote me some days ago, seemed to intimate that he should propose this alteration. He afterwards told me in conversation that it was Lord Ellenborough who meant to propose it. Who did propose it I do not know, for the whole matter passed in the House of Lords without debate, and I believe without any but the law Lords knowing what was done. The Chancellor's doubts and difficulties about this and the other Bill, expressed in his note to me, are so curious that I have thought the note worth preserving.*

* The following is the note alluded to :—

“Upon the Treason Bill—

“Is the enactment, that ‘the judgment to be awarded against any person or persons convicted or *attainted* of the crime of high treason’ quite accurate? (See below. Vide 4 *Black.* 380, 381.) Attainder, he says, commences upon, and not before, judgment pronounced.

“I entertain a doubt whether the sentence should be further changed than merely taking away the cutting down alive and drawing without a hurdle. The King can pardon the quartering; and if he does not, the sentence, if the party is hanged till he is dead, is not more severe than in murder.”

“Is the last clause necessary? Cannot the King do what it is here enacted he may do, by his prerogative? If so, the clause is improper.

“Attending to the first observation, I wish to know the form of awarding execution upon attainder by Act of Parliament, to which the term *attainted* may apply. I will have Dealtry furnish this from the *Baga de Secretis*.

“In the Bill to take away corruption of blood, will the words used give the benefit of it to aiders, abettors, and counsellors of petit treason or murder—persons convicted as such, and not of the petit treason or murder? The stat. 30 Geo. III. c. 48, has introduced these by express mention. If the blood is to remain corrupted after convictions and attainders of petit treason and murder, ought it not to be the same as to those convicted of aiding, abetting, and counselling? Is it necessary to consider this as to the High Treason

* “By Act 30 Geo. III. c. 48, *all* the sentence for murder is to be pronounced against women convicted of petit treason; and the Judges, according to Foster, soon after the 25 Geo. II. c. 37, agreed that the like must take place where men are convicted of petit treason.”

26th, Tu. The Lord Chancellor this morning, in Court, ^{Punishment of treason.} wrote a note and sent it down to me from the bench, in these words:—"I was surprised to read in my paper what you said last night as to quartering. In my Bill I had left it out, and I understood that that Bill had been altered only by introducing in the recital accurately the old judgment, and I was not aware that it had been otherwise altered, though I believe upon a question, if put among us, it would have been carried." The alterations alluded to in this note were, it seems, alterations made by Lord Ellenborough.

30th, Sat. Parliament was prorogued.¹

Bill! I incline to think not, after reading Foster, as referred to by Blackstone, who holds, on Foster's authority, that the doctrine that there are no accessories in treason does not hold in the inferior species of high treason. The result of Foster's doctrine, that there may be accessories in treason, seems to be, that the forms of indictment must, in some cases, treat them as such, but yet that they are principal traitors.

"Q. Whether the words of the Act of 7th Queen Anne, c. 22, sec. 10, had not better be used in this Bill? Is it necessary or expedient to name Scotland?"

¹ The following letter to M. Dumont is dated Russell-square, 17th August, 1814.—Ed.

"Dear Dumont,

"We are now drawing near to a close of our Chancery sittings, but, as the Chancellor always loses a great deal of time in the early part of the year, he makes up for it by extraordinary diligence at this season, and he is now sitting every day nine hours without interruption. It is with great difficulty, therefore, that I can find time to write these few lines to you; but this slavery will last for a fortnight longer, and I will not remain so long without letting you hear from me.

"London has for a long time been half crazy with emperors, and kings, and shows, and illuminations, and fireworks. It has at last sunk into a dead torpor, which is very stupid to the few fashionable persons who may be still lingering in town, but which is very salutary to the lower and laborious orders of the people. The mischief which has been done to the morals and happiness of the inferior artisans by the long holidays, which they have been indulged with, is hardly to be conceived. I have been assured that several pawnbrokers have declared that, while these festivals lasted, they lent, on the pledges of the clothes, and furniture, and tools of their poor customers, about ten times as much as they are accustomed to

Aug. 28th, Sun. The Lord Chancellor's sittings having ended last night, I set out this day for Tanhurst: Anne met me there the next day.

As soon as I had a little recovered myself from the fatigues of the many hours' attendance every day in Court, which I have been obliged to give ^{Speech on the slave-trade published.} for the last month, I put down in writing the speech I had made in the House of Commons on the 28th

do in ordinary times. This languid season, however, has been chosen by several poets for sending their choicest works into the world. We have a new poem by Rogers, another by Lord Byron, and a ponderous quarto, in blank verse, from Wordsworth,—the laborious inspiration of many years. Bulky as it is, however, it is only the fragment of a larger poem. The title explains what it is,—*“The Excursion, being a Portion of a Poem entitled “The Recluse.””* The scenes are in the humblest walks of life; the hero is a Scotch itinerant pedlar. Many of the verses are as prosaic as even Wordsworth ever wrote, and there is no story, and consequently nothing to give the reader any interest in the poem. There are, however, many beautiful lines, and it will certainly be praised with enthusiasm by the worshippers of the Lake-poets.

“I suppose that you see the English newspapers, and have learnt that Canning and his friends have accepted subordinate offices under the present administration. Canning, it is said, obtained these marks of royal favour by persuading the Princess of Wales to go abroad, than which nothing could be more acceptable to the Prince. Ward had agreed to accept a seat at the India Board, and to be a Privy Counsellor, but he afterwards repented; and, perhaps through fear of the ridicule of his friends or his enemies, rejected these contemptible honours. The public attention here was for a long time engrossed with Lord Cochrane. The punishment of the pillory, so grossly disproportioned to his offence, shocked everybody, and induced thousands to take a lively interest for him, who, but for that severe sentence, would never have troubled themselves respecting him. A great many members voted against his expulsion from the House of Commons: since he was expelled, he has been re-elected by the city of Westminster, and Government has found itself obliged to remit the punishment, and Lord Cochrane is now no more thought of. A stronger instance can hardly be found of the mischief done by punishments which are repugnant to public feeling and opinion.

“Lady R. is at Rottingdean with Sophy and Charles. At the end of a fortnight I hope to meet her at Tanhurst. How happy it would make us if you and William could be with us!

“Sincerely and affectionately yours,

“SAM'L. ROMILLY.”

of June on the slave-trade, as well as I could recollect it, and printed and published it.

Sept. 21st, Wed. I set out for Durham with Anne and Sophy.

Oct. 5th. Returned to Tanhurst. While I was at Auck-
Resignation
of the Chanc-
cellorship of
Durham. land, I mentioned to the Bishop of Durham, as I had done, indeed, a few months before in town, my wish to resign the Chancellorship.

My necessary attendance at Durham breaks very inconveniently into my vacations, which I always find too short. I should not, indeed, much mind this, if I could do any good in the office; but there is scarcely any business in the Court, and there never can be, unless an Act is passed to enable the Chancellor to enforce the process of the Court out of the County Palatine. Either this should be done, or the jurisdiction of the Court should be entirely taken away. I settled with the Bishop to resign the office in November, when he will be in town for the meeting of Parliament.

19th. An event has just happened which proves how inefficient the Court is. An infant ward of the Court, a girl of the name of Ann Wade, who has a property of about 4000*l.* a-year, has been seduced, by a young adventurer of the name of Bazely, from her guardians whom she had accompanied to Weymouth, and is kept somewhere concealed by him (it is supposed in Kent), till banns can be published, and they can be married. The Court can take no effectual step to prevent this, because its orders cannot be executed out of Durham.

31st, Mon. I returned to town from Tanhurst, where I have spent the whole of the vacation with Anne and my children, except William, who is at Geneva, and Edward and Henry, who, during part of the time, have been at school.

Whishaw and Sharp each paid us a visit of two or three days during the vacation.

Nov. 1st, Tu. The Lord Chancellor held the first seal before term.

8th, Tu. Parliament met.

10th, *Th.* I resigned the office of Chancellor of Durham.

28th, *Mon.* I made a motion in the House of Commons that the House should resolve, that, this country having been for more than five months at peace with all the powers of Europe, and in a state of undisturbed internal tranquillity, the still continuing a part of the militia embodied was contrary to the spirit and plain intent of the Act of 42 Geo. III. c. 90, and a manifest violation of the Constitution. The motion was rejected.¹

*Militia kept
embodied con-
trary to the
Act 42 Geo.
III.*

Dec. 1st, Th. Both Houses of Parliament adjourned;—the House of Commons to the 9th of February next.

On this 1st of December I was taken very ill. I had a fever and an inflammation of the lungs, which obliged me to keep my bed for ten days, and I was unable to attend in Court during any part of the sittings.

24th, *Sat.* I was sufficiently recovered to go out of town to Tanhurst, where I remained till January 11th.

1815.

Jan. 11th, Wed. I returned to town nearly as well as ever. A great quantity of blood was taken from me during my illness, and I was reduced very much; but in the country I regained my strength. My nephew Roget alone attended me at the beginning of my illness; but afterwards, at his request, Dr. Baillie was called in. He confirmed everything Roget had ordered to be done; and now in my own case, as before in the cases of several of my children and of my servants, I had very strong proof of Roget's great skill and ability in his profession.*

* During a part of my illness, my life was in some danger; and I was fully sensible of it. I had, however, little to settle; for, knowing how fatal would be the consequences of my dying intestate, by which my estates would descend to my dear William, and

¹ By a majority of 65—for the motion 97, against it 32.—ED.

Feb. 9th, Th. Both Houses of Parliament met, this being the day to which they were adjourned.

14th, Tu. I moved for and obtained leave to bring a Bill to subject the freehold estates of deceased debtors to the payment of their simple contract debts. and I immediately brought in the Bill, which was read the first time.

15th, Wed. A motion of Lord Fitzwilliam's in the House of Lords, on the illegality of still keeping a part of the militia embodied.

My Bill to make freehold estates liable for the payment of the simple contract debts of those who die indebted has passed the House of Commons without the slightest opposition from any one.

28th, Tu. The power which the Ministers have exercised of keeping a part of the militia still embodied, notwithstanding that all the causes

the rest of my children would be left very scantily provided for, I have never, since I have purchased land, been a day without a will. There were a few legacies which I wished to add; and I therefore made a short codicil, which my dear Anne wrote upon my dictation. Nothing could exceed her affectionate care and trembling anxiety for me during the whole of my illness. While I was confined to my bed, she scarcely quitted me day or night. In a short but most affecting conversation which I had with her on the danger I was in, she assured me that a sense of duty towards our dear children would, she was certain, enable her to bear up against the calamity of losing me. This is the first alarming illness that I have ever experienced. If it had ended in death, perhaps, as far as concerns myself, it had been fortunate. My life had then been one of unchequered prosperity, cheered and animated through the whole of it by the exertion of such faculties as I have possessed, in the pursuit of, I hope no unworthy objects. I had then, at a mature age, but before my mind had suffered from decay, left behind me a numerous family of children, whom I could hardly, as to any of them, have wished, at their ages, to have seen other than they are—healthy, intelligent, well-disposed, and seeming to be possessed of every qualification for passing through life happily for themselves and usefully for others. After witnessing the dreadful revolutions and wars which have desolated the earth during the period of my existence, I should have closed my mortal career just as peace was established throughout the civilized world; and as a new era of happiness to mankind seemed to be commencing, God grant that my life may not have been prolonged to see these enlivening prospects clouded and destroyed!

which can by law justify the calling them out and keeping them embodied have long ceased, appearing to me to be extremely dangerous and unconstitutional, I brought the subject again under the notice of the House of Commons, and moved this day a resolution in these words: "That nine months having now elapsed since the late definitive treaty of peace with France was signed, and this country having during the whole of that period been at peace, not with France only but with every power in Europe, and no cause whatever having existed or now existing for apprehending invasion by a foreign enemy, or any insurrection or rebellion within the realm, it is contrary to the spirit and true intent and meaning of the Act of 42 Geo. III. c. 90, to continue any part of the militia force of this country still embodied." Many circumstances induced me thus to bring this question a second time before the House. 1st, The great constitutional importance of the question; 2dly, The opinions which the Secretary of State had procured from the Attorney and Solicitor General in justification of the legality of their conduct, and had circulated through all the militia regiments; and which opinions I had not seen at the time of my former motion; and, 3dly, The dangerous doctrines which had been advanced on this subject by the Lord Chancellor and Lord Ellenborough, in the House of Lords, on the late motion of Lord Fitzwilliam. Those two Lords had defended the present conduct of the Ministers by the example of what had passed in the year 1792, when, as they alleged, the militia had been called out under the pretence of an insurrection, which, in fact, never existed; and this example, thus represented by them, they highly applauded. On this question of the militia it should seem that one of these two opinions must be maintained: either the Crown is bound to disband the militia as soon as it is clear, beyond all dispute, that the causes which alone will, under the Act of Parliament, justify the calling them out have entirely ceased—which is the proposition I contended for, or, being once called out, the Crown may, without limit, continue them embodied as long as it shall be its pleasure to do so—an opinion which the Ministers and their friends

had not, however, the boldness in direct terms to avow. My motion was, of course, rejected.¹

March 3rd, Fri. A Bill to prohibit the importation of foreign corn for home consumption, when the *Corn Bill.* price of wheat shall be below eighty shillings per quarter, was read a second time in the House of Commons. Thinking it an extremely injudicious and impolitic measure, I voted against it in a small minority.²

5th, *Sun.* I called this morning on Lord Grenville, to endeavour to prevail on him to take the charge, in the House of Lords, of my Bill for subjecting freehold estates to the payment of simple contract debts; for if it continues this year, as it was the last, in the hands of Lord Erskine, who does not understand the subject, and is incapable of answering any objections that are made to it, there is no chance of its being carried. Lord Grenville told me that he was at present so occupied with the Corn Laws, that he could attend to nothing else; but he promised me, that after Easter he would apply himself to the subject, and endeavour to make himself master of it.

6th, *Mon.* Great outrages have been committed against *Riots in Lon-* the Members of both Houses of Parliament who *don.* are supposed to be friends to the Corn Bill. The populace broke into the houses of the Lord Chancellor* and of Mr. Robinson, and destroyed part of their furniture. Other houses too were attacked, such as Lord Darnley's, Lord Ellenborough's, and others.

¹ By a majority of 103—for the motion 76, against it 179.—ED.

² Of 44 against 215. On the 6th of March and following days, many very numerously signed petitions were presented to the House against this Bill. Amongst others, there were petitions from Manchester, signed by 54,000 persons; from Westminster, by 42,000; from Liverpool, by 48,000; from the bankers and traders of London, by 40,000; and from Leeds, by 24,000 persons. The views of the petitioners were supported by the late Sir Robert Peel, Mr. (now Sir George) Philips, Mr. A. Baring (now Lord Ashburton), and several other members.—ED.

* The Lord Chancellor was greatly affected by this attack made upon his house, and discontinued his sittings both in the House of Lords on causes, and in the Court of Chancery (in one or other of which courts he ought to have sat every day), till Monday, March 13, when he sat in the House of Lords, as usual, on appeals.

7th, Tu. The same outrages and riots in different parts of the town, and a few persons killed or wounded by the soldiery.

8th, Wed. The riots continue, but to a less extent.

To-day, on bringing up the report of the Mutiny Bill, I moved to add a clause to it in these words:— *Military punishments.* “And be it further enacted, &c., that it shall not be lawful for any Court-martial, by its sentence, to inflict on any offender a greater number of lashes than one hundred.” It was very late at night, or rather early on Thursday morning, and after a long debate on the Corn Bill, that this business of the Mutiny Bill came on. It was the only opportunity, however, that I had of moving my clause; and, as I had long determined, on the first Mutiny Bill which should be passed after the restoration of peace, when the supposed danger of interfering with the discipline of the army would have ceased, to endeavour to diminish the excessive severity of military punishments, I would not suffer the Bill to pass without making this attempt. Mr. Manners Sutton, the Judge-Advocate, said, that he wished to have time to consider the proposition, and to consult military men upon it; and, as the Bill was to continue only for four months, he requested me to withdraw my motion for the present, and to propose it again on the next Mutiny Bill. He said that the Commander-in-Chief was extremely anxious to lessen the severity of corporal punishments, and if possible to abolish them entirely; and that, of late, and principally through his means, they had been very rarely inflicted. I consented to withdraw my motion.

At my instance, Mr. Hiley Addington (the under Secretary of State) has brought a Bill into Parliament to compel clerks of assize and clerks of the peace regularly to make returns to the Secretary of State, in order that they may be laid before Parliament, of all criminals tried at the assizes and quarter sessions, and of their crimes and sentences. Being brought in by Government, the Bill has passed the House of Commons, without any objection being made to it.*

Clerks of assize and clerks of the peace to make returns of criminals.

* It afterwards passed into an Act, stat. 55 Geo. III. c. 49.

10th, *Fri.* As I was coming out of the Court of Chancery to-day, I was told that intelligence had just arrived that Bonaparte had landed in the south of France, on the 1st or 2nd of this month,* at the head of about 1000 men, and was marching towards Grenoble. I gave no credit to the information, but I find that it is but too true. It is in every body's mouth, and has filled every one with consternation. The name of Bonaparte is one

“——at which the world turns pale.”

From all the accounts we have long heard, there can be no doubt that there is great attachment to him in the army, and great indifference for the Bourbons in every part of France; though in many parts of it an earnest desire to remain at peace, whoever may be their sovereign. The defection of the first troops that are called upon to act against Bonaparte will probably be a signal for the revolt of the whole military force of the kingdom.

12th, *Sun.* The news of to-day is, that Massena has declared against Bonaparte; and great hopes are entertained of his being crushed.

22nd, *Wed.* After twelve days of most painful and increasing anxiety, though with fallacious hopes now and then held out that the great body of the French nation would remain faithful to the King, and that great military preparations were making to surround and overpower the troops which accompanied Bonaparte, we received this evening, and while I was in the House of Commons, the certain intelligence that the soldiers had every where refused to act against him; that the King, finding resistance impossible, had withdrawn himself from Paris; and that Bonaparte must before this time have entered that city,† without a single shot having been fired from the first moment of his landing in France. So sudden, complete, and bloodless a revolution more resembles fiction than history. Napoleon seems, as it were at his pleasure, and just at his own season, quietly to have

* He landed on the 1st.

† He entered it on the 20th, at night.

resumed his empire. But what a dreadful prospect is thus suddenly opened to mankind! What dismay must not these tidings strike into the hearts of hundreds of thousands of human beings in every station of life, from the throne to the cottage! What a deluge of blood must be shed! How various and how terrible the calamities which are now impending over states and over individuals!

24th, *Fri.* Set out for Tanhurst, to pass the Easter holidays, and stayed there till Monday, April 3rd. We had all our children with us but William. My sister and her daughter and Dumont were also of our party. The state of public affairs, Dumont's alarms as to the future fate of Geneva, and some anxiety which we felt for William, who is still there, threw much gloom over our society.

April 3rd, Mon. Returned to town.

4th, *Tu.* A very unfortunate difference of opinion subsists between Lord Grenville and Lord Grey. Difference between Lord Grey and Lord Grenville. On the course which it is the policy of this country to pursue in the present state of things. Lord Grenville thinks immediate war almost indispensable, while Lord Grey is for preserving peace as long as it is possible. Several letters have passed between them; and it seems probable that it will not be long before this difference of opinion will appear by open declaration in Parliament.

Bonaparte has commenced his new reign by extraordinary moderation, and a professed desire to maintain peace. He has declared, in a public paper, that he has renounced the idea of the grand empire, of which for fifteen years he had only been forming the basis; and that from henceforth the happiness and the consolidation of the French empire would occupy all his thoughts. He pretends to be about to give a free constitution to France; he has declared that there shall be no restraint on the liberty of the press; and he has abolished the slave-trade. These, it is said, are all insincere professions: probably they are; but that he should make such professions, is not among the least wonderful of the extraordinary events which are passing in the world.

6th, *Th.* The Prince Regent's message to both Houses of Parliament. It is to be taken into consideration to-morrow. I attended at night a meeting of the Opposition at Mr. Ponsonby's. Mr. Ponsonby stated his intention of concurring in the address to be moved on the message; as it will not pledge the House to war, but merely to increase our armaments, and to preserve a concert with the Allies. It was observed by Tierney that, although he should not propose an amendment, yet, if an amendment were moved, as possibly it might be, merely recommending the maintaining peace, he should find himself bound to support it. Ponsonby said that, if such an amendment were proposed, he thought that it ought to be rejected. Mackintosh maintained the same opinion; and on this subject a great difference of opinion prevailed. For myself, I declared that, if such an amendment were proposed, I should think it necessary to vote for it. The truth is, that Whitbread, who did not attend the meeting, means to propose such an amendment. The meeting broke up without coming to any determination.

7th, *Fri.* The address proposed. Whitbread moved his amendment, which was opposed by Ponsonby. I voted for it, and to my surprise thirty-eight other persons voted for it. I expected to have been in a minority of 16 or 17 only.¹

9th, *Sun.* I called at Lord Grey's, and he showed me the correspondence which has taken place between himself and Lord Grenville. Lord Grey's are admirable letters, written with great moderation and good sense, and stating reasons for not hastily plunging into war, which certainly are not answered by Lord Grenville, and which appear to me to be quite unanswerable.

12th, *Wed.* Upon the House of Commons going into *Scotch Jury Bill.* a committee on the Bill for extending the trial by jury in civil cases to Scotland,² I spoke at some length in favour of the Bill. I knew that there was not to be any opposition to it, farther than to the clause

¹ The number against the amendment was 220.—ED.

² 55 Geo. III. c. 42.—ED.

which required juries to give unanimous verdicts ; but, as the Bill has gone through its former stages without any mention of the benefits which the measure is calculated to confer on Scotland, I thought it right to observe upon them, and to contrast the expeditious, cheap, and satisfactory mode of a trial by those who themselves hear the oral testimony of the witnesses, with the present most expensive, dilatory, and imperfect mode of trying facts on written depositions. I took occasion to observe that all these evils, which the present measure is to relieve Scotland from, exist even to a still greater extent in our English Ecclesiastical Courts ; and that the *Ecclesiastical Courts.* remedy provided by this Bill, of sending all questions of fact to be tried in issues by juries, is just as applicable, and may indeed be applied with much greater facility to our Ecclesiastical Courts than to the Courts of Scotland. I observed, too, that the Bill suggests what would be a very great improvement in *Issues in Courts of Equity.* our Courts of Equity ; namely, to enable the Courts to direct issues, as soon as it appears to them that there is a question of fact, on which the cause depends, in dispute between the parties, instead of waiting, as is now the practice, till the hearing of the cause, and, consequently, till the expense has been incurred of taking the written depositions of the witnesses, and then sending an issue to be tried by a jury, which might just as well be tried at a much earlier stage of the cause, and with a saving of all that expense. Many petitions had been presented from different parts of Scotland, objecting to that clause in the Bill which required unanimity in verdicts ; and stating the repugnance of the petitioners to take the oath prescribed to jurors, which is, that they will decide according to the evidence, when the law afterwards compels some of them to decide according to the opinions of others. I took notice of these petitions, and observed that I could not but respect the scruples of those who had presented them : that, however long usage may have reconciled us to this oath, and may induce us to understand it in a sense different from that which the plain words of it import, it was not to be wondered that it appeared very highly objectionable to those on whom it was now for

the first time to be imposed; for, although unanimous verdicts are at present required in Exchequer causes, they were not numerous, and were confined to Edinburgh: that respect for oaths cannot be too much encouraged; and that even unfounded scruples, though I could not consider these as such, should be listened to with indulgence and favour. In the committee, a clause was added to the Bill, that if the jury, after having been enclosed for twelve hours, should not agree in their verdict, the Judge might discharge them, and cause a fresh jury to be summoned. I had suggested that the juror's oath might be altered, and that he might merely swear conscientiously to discharge his duty as a jurymen, instead of swearing that he would give a true verdict according to the evidence; or that a majority of the jury, as in criminal cases in Scotland, should give the verdict. But the expedient of discharging the jury, if they did not agree, had been settled by the Chancellor and Adam, (who has been newly made a Baron of the Exchequer, and who is to be at the head of the Jury Court,) and was preferred.

17th, *Mon.* I moved in the House of Commons for a copy of the report of the Recorder of London to the Regent, of the case of Robert Lathrop Murray, tried in January last at the Old Bailey for bigamy. I had before presented a petition from this man to the House, which had been received and ordered to lie on the table. The offence had been committed under circumstances which made it, as appeared to me, one of no aggravation. The first marriage had taken place when the offender was very young, and with such irregularity as might well have raised doubt in his mind as to its legality. The second wife was fully apprized of the first marriage, before the second was solemnized. The offence had been committed thirteen years before the prosecution; and the prosecutor was unconnected with the family of either of the wives, and was a total stranger, who, through revenge for some private wrong the prisoner had done him, instituted the prosecution. The prisoner, however, was a man of bad private character, and for that reason (for no other could be suggested, though it was denied that his bad character was taken into consideration) the Recorder

sentenced him to seven years' transportation ; and his application to the Regent for mercy was rejected. I thought that so improper an exercise of the very large discretion which Judges possess with respect to the punishment of this offence was a fit subject of animadversion in Parliament. I stated that the great distinction to be taken in this offence, as to its enormity, was, whether the second wife was informed, or was kept in ignorance, at the time of her marriage, that the man who proposed himself to her had already a wife living : that the cases where she was kept in such ignorance could alone be considered as cases of great aggravation :* and I showed, from the returns made to the House of Commons, that in eight years, from 1805 to 1812 inclusive, there had been convicted of bigamy at the Old Bailey, and on the different English circuits, 104 persons, who had been sentenced to the following punishments :—23 to be transported for seven years, 13 to be imprisoned for two years, 29 to be imprisoned for one year, 35 to be imprisoned for six months, and four to be only fined. It was manifest, therefore, that in this man's case an unusual degree of severity had been exercised, which nothing in the circumstances of his case called for or could justify. The Attorney-General and Hiley Addington opposed the motion ; and, of course, it was lost. The Attorney-General, though he endeavoured in his way to aggravate the offence, could state nothing material, but that the second marriage was by license obtained by the prisoner, and consequently that he had falsely sworn that he was a single man to obtain it. He talked a great deal about the inconvenience of the House of Commons listening to complaints with respect to the administration of justice, and extolled all the Judges, and particularly the Recorder.

21st, *Fri.* On the second reading of a Bill brought into Parliament by Michael Angelo Taylor to abolish the punishment of the pillory, no person ^{Punishments of the pillory.} rose to give any opposition to it, as no one had opposed the bringing it in. It would have passed in total silence ; but

* See, in the third edition of my *Observations on Criminal Law*, the note relating to Bigamy.

I thought it right to mark the unanimity with which the Bill was received; as I suppose that, though it may be allowed to pass the Commons, it will probably be thrown out by the Lords.¹ I therefore said that the Bill had my entire approbation, as it appeared to have that of every other Member of the House.

28th, *Fri.* Whitbread moved, in the House of Commons, *Whitbread's motion against war.* that an address should be presented to the Regent, praying that his Royal Highness would not involve the country in war on the ground of the Government of France being in the hands of any particular individual, or to that effect; for I do not recollect the precise words of the motion. I voted for the motion, in a minority of 72 against 273. I had some thought of speaking, but everything that had occurred to me was much better said by others than it could have been by me, and I contented myself with giving a silent vote.

The principal arguments of those who opposed the *Arguments for war.* motion, and were for making war, were,—That experience had proved that there could be no security for this country as long as Bonaparte was at the head of the French Government: that his ambition was insatiable, and the destruction of this country the object nearest his heart: that no reliance could be placed on his present professions: that to conclude a peace with him was only to enable him at his leisure to make preparations to overwhelm us: that as long as he was the ruler of France, it must be a military nation, and its relations with this country must be those of actual or suspended war, of open hostility or an armed truce: that an armed peace was a state little less mischievous to England than open war: that the expense of it would be most burdensome, if not ruinous to the country; and that such a great military peace establishment, as must be kept on foot, was wholly inconsistent with the spirit of our Constitution, and would justly excite alarms for the liberties of the nation: that at the present moment the Allies were all

¹ See 5th July, 1815.—ED.

united, and were prepared for very great exertions in the common cause; but what they might be at some future period, when, having for the present suffered ourselves to be deceived into an anxious security, we should at last awake unrefreshed from our haunted and disturbed repose to a sense of our real danger; what views might have opened to their ambition in the interval, what jealousies might have arisen, what successful seductions might have been practised, what a state of incapacity to engage in immediate war any of the Allies might have fallen into, the most sagacious could not foresee: that, in these circumstances, our greatest safety seemed to be in war, and was unquestionably in co-operating with our Allies, whatever might be their determination.

To this it was answered, That it would readily be admitted that Bonaparte was not sincere in his *Arguments for peace.* professions of moderation: that if he had the power he would at present grasp at the same objects of unbounded ambition as he had done formerly; but that in reality he was now deprived of all power: that he now, for the first time, felt the necessity of cultivating the favour of those who were friendly to the establishment of a free government: that without their concurrence he could not raise such an army as would set him above the control of every domestic party, and make him an object of jealousy to foreign states: that the hostility of the Allies was what could alone relieve him from these difficulties, and set him free from all restraint: that the threat of a hostile invasion, and the preparations carrying on to execute it, would make indispensable great levies of troops in France, and must necessarily invest with the command Bonaparte, as the military chief, in whose talents the nation could best confide; and that when once he was placed at the head of a great military force which he could lead to victory and conquest, he would scorn all domestic parties: that the most extraordinary expedient that ever was thought of for preventing the French from becoming a military nation, was to force them reluctantly into a war: that in determining on the expediency of war, we must consider our means and our resources; and that with the

present exhausted state of our resources, the most sanguine could hardly hope that we should be able to supply the expenditure necessary for carrying it on for a period of more than two years : that if peace would afford France time to recruit her strength, and put herself in a formidable state of military preparation, it should be recollected that it would afford the same advantage to the Allies, who seemed to stand in still greater need of it : that if the union of the Allies was not to be depended on in time of peace, how much less could any reliance be placed on it during the various occurrences of war, which were continually opening new situations to work upon their hopes or their fears, and to seduce them from their alliance ?

May 9th, Tu. I stated in the House of Commons my

*Sergeant
Best's Insol-
vent Debtors'
Bill.*

reasons for objecting to a Bill which Sergeant Best has brought in to alter Lord Redesdale's Insolvent Debtors' Act. The objects of the

Sergeant's Bill are two :—1st, To compel debtors, after they have been imprisoned a certain time in execution, to deliver in, upon oath, an account of all their property, and of all the debts they owe, and to compel an assignment of all their property for the benefit of their creditors, and to punish a refusal to give in such an account, or the giving a false account, with transportation for seven years as a felony ; and, 2ndly, To extend the term of imprisonment of those who take the benefit of the Act beyond three months (the period at which they are now entitled to the benefit of it) to longer periods, proportioned to the amount of the dividends their estate may pay. With respect to the first of these objects, although I highly approved of the compelling the application of a debtor's property against his will to the payment of his debts, yet I greatly disapproved of the modes by which this was to be accomplished. To begin by imprisoning a man for three months ; then to oblige him to account upon oath for all his property ; to hold out to him temptations to commit perjury, and, if he refuses to expose himself to such temptations, to punish him with the same severity as thieves and highway robbers, according to the mode in which the criminal law is usually administered,

are now exposed to, appeared to me to be unjustifiable. The excessive severity of the law would prevent the execution of it, as was already the case with the Bankrupt Laws and with the Lords' Act, in which there was a provision exactly to the same effect as the one now proposed, but which had not (except in some very rare instances) been carried into execution. As to the second object of the Bill, I could not understand on what principle the length of a debtor's imprisonment was to be proportioned—not to his good or bad conduct, but to his inability to pay his debts; so that the severity of his punishment should increase according to the extent of his misfortunes. I took this opportunity of stating these objections; but at the instance of Sergeant Best the further consideration of the Bill was postponed.*

13th, *Sat.* Went out of town with Anne and my children, to pass the Whitsun holidays with Mr. Nash, at Cumberland Lodge in Windsor Park.

18th, *Th.* Returned to town.

22nd, *Mon.* I objected in the House of Commons to the new very heavy stamp duties proposed to be *Taxes on law proceedings.* laid on law proceedings in Scotland.

25th, *Th.* The Prince's message communicating to the House of Commons the treaties he has entered into with Russia, Austria, and Prussia, at Vienna, on the 25th of March last, was taken into consideration by the House to-day, and an address voted approving of the treaties. Lord George Cavendish moved an amendment, expressing disapprobation of the stipulation in the treaties, by which the parties "engage not to lay down their arms until Bonaparte shall have been rendered unable to create disturbance, and to renew his attempts for possessing himself of the supreme power in France." The amendment was rejected by a majority of 331 against 92. After Lord Castlereagh had

Treaties with Austria, Russia, and Prussia against Bonaparte.

* The bill was afterwards postponed from time to time, but was never read a second time; and on the 7th of June Sergeant Best stated that he should proceed no farther with it, but bring in another Bill in the next Session.

opened the subject and moved the address, the whole debate was carried on by members of the Opposition; Grattan, Plunket, Lord Milton, and Charles Williams Wynn having supported the address, and declared their *Grattan and Plunket.* entire approbation of the war. That Grattan and Plunket should state their reasons for differing from the great majority of those with whom they have concurred in opinion on all public matters for many years back cannot surprise one; but that they should take extraordinary pains, and exert all their eloquence, to show how much their former friends are, in their opinion, in the wrong, is not very easy to be accounted for. In the House of Lords, two days ago, on the same question, Lord Grenville supported the Ministers. Erskine, who has *Lord Erskine.* lately accepted a green riband from the Regent, voted with the Ministers, but did not speak. One might have expected, however, that he would have explained how it happened that his opinions now were so different from those which he entertained during the last war, and which he published in a pamphlet that had great celebrity. This pamphlet I remember his carrying with him to Paris after the peace of Amiens, and giving to a number of persons there, telling every one of them that there had been still later editions than that which he gave them, and which was the twenty-sixth,¹ or some other great number, for I do not recollect exactly which it was.

26th, *Fri.* On the question of subsidizing the Allies, I *The subsidies* voted against it, and in a minority of only *to the Allies.* seventeen.² Most of the Opposition (I know not why) would not give themselves the trouble of attending.

A Bill has been brought into the House to enable the Crown to call out the militia. It has been brought in as a matter about which so little consideration was necessary, that the Bill was not even ordered to be printed, till I moved the *Bill to enable the King to embody the militia.*

¹ It appears from notes made by Sir S. Romilly at the time, that it was the thirty-third edition, and that Lord Erskine stated that five editions had been published since.—ED.

² The number in favour of the motion was 160.—ED.

printing of it. The Bill, as brought in, enacts, that it shall be lawful for his Majesty, under the present circumstances, at any time after the passing of the Act, and before a day to be named, to draw out and embody the whole or any part of the militia. If passed in this form, the Act must have left it entirely at the discretion of the Crown to keep the militia embodied as long as it should think proper; for who could say when the present circumstances had so far altered that it could be affirmed that the occasion of calling out the militia had ceased? I proposed therefore in the committee to insert, instead of the words "under the present circumstances," the following words: "in the present situation of the country, there being the prospect of an immediate war with France," and Lord Castlereagh adopted these words; so that they now stand in the Bill.

30th, Tu. Sir Henry Parnell moved for the appointment of a committee to take into consideration the claims of the Catholics of Ireland. The same question, moved two years ago by Mr. Grattan, was carried, but it was now lost; the numbers being,—against it 228, for it 147. This is to be accounted for in a great degree by the rash and intemperate conduct of the Catholic Board. I did not speak; but I voted for going into the committee. It appeared to me that the indiscreet manner in which a few individuals, who were desirous of distinguishing themselves, without regard to the interests of the great body of the Catholics, had insisted upon the claims of that large and deserving description of persons, could not alter the nature of these claims; and that it was both just and highly expedient that they should be allowed: that the securities for the Protestant Establishment which had formerly been talked of, and of which nothing was now said, either in the petition of the Catholics or in the resolutions which Sir Henry Parnell stated that it was his intention to propose to the committee, were by no means essential to the granting the Catholics' demands. The supposed dangers appeared to me to be chimerical: if they really existed, no guards that I have ever heard talked of would be an effectual security against them; and to me it seems that the best security is to be found in the

Proposed removal of disabilities from the Catholics.

common interest which the Catholics, when admitted to the enjoyment of the same rights as ourselves, would have in the prosperity of the country. To admit the Catholics to a participation in these advantages has always appeared to me wise and politic ; and, in my opinion, it is most peculiarly so at the present moment, when we are just on the point of engaging in a war, the consequences and the duration of which the most sagacious cannot foresee. When we are entering upon a contest which will probably have the effect of uniting all parties against us in France, it is most important that we should take care not to perpetuate the causes of disunion and dissension amongst ourselves. The now granting freely to the Catholics what they demand, would render that part of the empire a source of strength and power to us, when we shall stand most in need of all our resources ; instead of being, what, as long as the present exclusion and disqualification of so large a part of the population continues, it must ever be—a cause of weakness, of anxiety, and of alarm. If the war continues long, all that is now demanded by the Catholics will infallibly be granted to them ; but it will be granted, not as an act of justice and of kindness, but as a measure of necessity, and when it will be too late to derive from the concession those very beneficial consequences which now would flow from it.

June 2nd, Fri. Mr. Gordon moved to-day for a committee to inquire into the conduct of General Ainslie, in Grenada and Dominica, while he was acting as governor of these islands, and I very strenuously supported the motion. Mr. Goulburn, the Under Secretary of State for the Colonial Department, undertook that an inquiry should be instituted by Government into the General's conduct ; and that he should not be sent out again to the West Indies till the result of that inquiry should be known, and he should have satisfactorily answered the charges against him ; and on this undertaking, Mr. Gordon withdrew his motion. The principal charges against General Ainslie were, that, while acting as Governor of Grenada, he had published a proclamation, commanding all the free men of colour in

Conduct of Governor Ainslie at Grenada and Dominica.

the island to come in and take the oaths of allegiance before him within a week, under pain of being immediately carried out of the island : that a short time afterwards, he had gone attended by three soldiers into a private house, and had by force taken away a free man of colour of the name of Michel, and carried him to the market-place, and there by his sole authority had him publicly flogged, and then imprisoned and kept on bread and water for three days ; although the man had actually taken the oaths in his own presence ; and that, while Governor of Dominica, he published a proclamation, declaring "that the utmost rigour of military execution shall be put in force against all those runaway slaves that might be apprehended after three weeks from the date of the proclamation—neither age nor sex spared, all indiscriminately shall be put to the bayonet." To those who came in during the three weeks a pardon was offered. It did not appear that the island was in any such state as could justify the publishing such a proclamation, even if it were merely meant as a threat. Among the papers produced by General Ainslie in his defence, is one purporting to be a return of Maroons executed, killed in the woods, and pardoned by him, Governor Ainslie. It is in these words :—"Hanged, 9 ; otherwise punished by banishment, working in chains for a short time, &c., 42 ; killed in action with the rangers, whose heads were afterwards stuck on poles for the sake of example, 12 ; restored to their owners, many of whom had been from ten to thirty-five years in the woods, 530 : since the above, there have been restored to their masters 85." It appears from this return, that 615 persons of colour, taken in the woods, have been delivered up to particular individuals as their own property, although some of them had been for thirty-five years in the enjoyment of their liberty. How it was proved that individuals so long *de facto* free were legally slaves did not appear. By the law, indeed, of this as of all the other West India islands, every man of colour is presumed to be a slave, and the burden lies on him of proving that he is free ; and by another law, no man of colour can be heard to give evidence in a civil suit. With

the assistance of these laws, to be sure, there could be no difficulty in establishing the fact of slavery; for what man of colour would be able to find white persons living who could prove such facts as must have passed more than thirty years before, and as would tend to show that his condition then was that of a free man? Still however it would remain to be proved who these owners were to whom the different individuals were delivered up as being their property. For myself, I very much suspect that this expedition against the wild negroes, who have existed, I believe, in the mountains ever since the island became part of the British possessions (which was at the peace of 1763) was merely a pretext for extirpating (what certainly is a great inconvenience) the haunts of these people, to which all runaway negroes may resort as to an asylum; and for getting a supply of fresh negroes for the plantations of individuals, which cannot, since the abolition of the slave-trade, be procured by any regular means. I think of moving for some further accounts on this subject.

3rd, Sat. I attended this morning at the Duke of Gloucester's at a meeting of the Committee of ^{Proposed re-}_{gistry of slaves} the African Institution, for the purpose of ^{in the colonies.} considering the expediency of attempting to pass a law to compel the registry of all slaves in the colonies. This measure has been long in the contemplation of the society; and they have lately published, as a report of their committee on that subject, a very good pamphlet written by Stephen. They have been prevented, however, taking any step towards accomplishing the object, because they have always supposed, and been given to understand from Ministers, that they would bring forward such a measure themselves. At last Ministers have declared that they do not approve of it, and will not support it.* Still Wilberforce, who is unwilling ever to act against the

* Stephen resigned his seat in Parliament in consequence of this declaration. He thought he could not conscientiously support the measures of the Ministers, if they would not give their support to an Act which he thought so important. This conduct is certainly highly honourable to him.

wishes of Government, has doubted whether it will not be advisable farther to postpone doing anything, in the hope that next year the Ministers may see the matter in a more favourable point of view. Every one else present, Lord Grenville, Lord Lansdowne, Stephen, Horner, William Smith, &c., thought that the measure ought not to be delayed any longer ; and Wilberforce has undertaken immediately to move for leave to bring in a Bill to establish a registry of slaves in the colonies.

5th, *Mon.* News arrived of the capitulation of Naples to the Allies.*

(The Champ de Mai held at Paris June 1st, and the additional act of the Constitution accepted by the French nation.)

7th, *Wed.* On my motion the House of Commons resolved to address the Regent to give directions that there be laid before the House an account of the 615 persons of colour stated in the return of Governor Ainslie to have been restored to their owners, and many of them to have been from ten to thirty-five years in the woods ; distinguishing their sexes, ages, and names, and which of them were negroes and which were other persons of colour ; and stating the names of the several persons to whom they, and each of them, have been restored ; and in what manner such of them (if any) as have not been restored to their owners have been disposed of.†

On the same day, I with others opposed an increase of the salary of the Master of the Rolls in Ireland. Master of the Rolls in Ireland.

13th, *Tu.* Wilberforce made his motion for leave to bring in a Bill for establishing a registry of slaves in the plantations. The motion was opposed by several persons who have an in-

Account required of the 615 slaves stated by Governor Ainslie to have been restored to their owners.

Master of the Rolls in Ireland.

Proposed registry of slaves in the colonies.

* The capitulation was signed on the 20th of May, and the despatches announcing it arrived here on the 6th of June.

† This account was given in the following session of Parliament, and the name was stated of every person to whom his supposed slave was restored. That the negroes were delivered to these different individuals may be perfectly true, but that such individuals were the legitimate masters of such negroes remained to be proved.

terest in West India property ; by Anthony Browne, by Marryatt, and (though not very strenuously) by Barham. They affected to consider the measure as intended merely to prevent the illicit importation of negroes into the islands, and they denied that there had been any such illegal importation, and they insisted that a registry was therefore unnecessary. But beyond this, they said, that the attempt to carry such a measure was likely to produce very alarming consequences ; that the British Parliament's right to legislate as to the internal concerns of the colonies was disputed, and such an Act as this could not but excite the greatest jealousy and alarm on their part ; and they hinted that it might produce open resistance. Browne moved, as an amendment, that, instead of leave being given for bringing in the Bill, a committee should be appointed to inquire whether slaves had been smuggled into the islands since the abolition of the trade.* Lord Castlereagh said he should not object to bringing in the Bill, if it were merely to be printed and suffered to stand over to the next Session. The right of the British Parliament to pass such a law, he said, could not be disputed ; but it was very inexpedient to do it, if the colonial legislatures could be prevailed on to pass such Acts themselves ; and, in the hope that they would, he suggested the expediency of postponing the measure to another Session.

* I opposed the appointing of such a committee, and supported the original motion, on the ground that the registry was proposed, not merely as supplementary to the abolition, and as giving complete effect to that measure, by rendering the clandestine importation of negroes into the plantations impossible, but as a regulation indispensably necessary for the gradual improvement of the condition of the slaves, and as one step towards their final emancipation. If no persons of colour could be considered as slaves but those whose names were on the Registry, there would be an end of that cruel presumption, which prevails in all the colonies, that every black man is a slave ; which presumption he is to rebut as he can by legal evidence, and which is attended with the most fatal consequences. I insisted upon the right of the British Parliament to make such a law, and mentioned various instances of Acts passed to regulate the internal affairs of the islands ; and I showed, by many instances, how little was to be expected for the protection of the slaves and amelioration of their condition from the colonial legislatures.

This suggestion it was thought prudent to adopt; and Wilberforce said that, if permission were given to bring in the Bill, he should merely bring it in, have it printed, and take no further step upon it at present. Browne's amendment was withdrawn. A great deal has been gained by this debate. It is of great importance to put an end to the notion entertained, or at least professed by the planters, that their colonial legislatures have the sole and exclusive right to make laws to regulate their own internal concerns.

21st, *Wed.* When the Mutiny Bill was brought into the House, Mr. Bennet was very desirous of moving to add a clause to it for restraining Courts Martial from inflicting by their sentence more than 100 lashes on any offender; and it was settled between us that he should move it instead of me. There was no opportunity, however, of doing this, (so late was the Bill brought in, and so necessary was it to hurry it through the House,) but at one o'clock in the morning, when the House was tired with long debates on other subjects. At my suggestion, therefore, he abandoned his intention, and gave notice of a motion for leave to bring in a Bill to limit the number of lashes which Courts Martial may by their sentences inflict; and that motion he made on this day. The debate turned very much upon the expediency of retaining the punishment of flogging in the army, or of abolishing it altogether. I spoke and endeavoured to fix the attention of the House to the real question, which was, not whether such punishments should continue, nor whether the power of Courts Martial should be restrained to inflicting 100, or any other particular number of lashes, but whether there should be any limitation at all to such punishments. Courts Martial now might inflict 1000 lashes, or even a greater number; and there have been instances, though not very recent ones, of as many as 1500 lashes being the sentence on an offender. Sentences were pronounced which it was known could not be executed, the offender not having by nature a capacity to endure all the punishment which he was doomed to undergo. For

*Motion for
leave to bring
in a Bill to
restrain the
severity of
military
punishments.*

merly these punishments were inflicted at different times ; as much, or nearly as much, as the sufferer could endure at one time, and the rest at a future period, when he was so far recovered as to have acquired a renewed capacity of being tortured to the utmost limit of human endurance. This practice has been of late discontinued in England, but I doubt whether it has in the remoter possessions of the Crown ; and it is certain that the threat of executing the remainder of the sentence has been held out to compel men to enter into regiments serving abroad, and in unhealthy climates. These evils, it is said, have of late years been greatly diminished, and the Commander-in-Chief, highly to his credit, discountenances them as much as possible ; but there ought to be some more solid security that they will not be revived, than the disposition of the Commander-in-Chief. His successor may take a different view of the subject ; and, as it is admitted that excessive and unnecessary severities of this kind have existed, and that not many years back, they may again exist, if there be no legislative provision against them. These were the principal topics I touched on ; and I endeavoured strongly to impress upon the House, that, by voting against the motion, they were declaring that there should be no limit whatever to these severities. The motion, however, was lost, and without a division. Manners Sutton declared in the course of the debate, that, in his opinion, when a criminal had been brought out and had suffered some portion of the lashes to which he was sentenced, it was illegal to inflict any more of them on him at any future time ; or by the threat of inflicting them, to compel him to enter into any other regiment. Such an explicit declaration from him may do much good. Great benefits have already been derived from the discussion of this subject in public. It is to these discussions, which have attracted the public attention to these punishments, that the recent mitigation of them, which is admitted to have taken place, is principally to be ascribed.

News arrived late this evening of the great victory obtained by the Duke of Wellington over Bonaparte at Waterloo, on the 18th of June. Hostilities commenced by

the action between the French and the Prussians on the 15th. The victory has been complete, but our loss immense.*

22nd, Th. On the question of going into a Committee on a Bill to continue the system of transportation and of imprisonment on board the hulks, generally and without limit, the former Acts having been temporary and being about to expire, Mr. Holford suggested many important improvements to be made in the management of the hulks; and he reprobated very strongly the present mode of conducting them, and pointed out the great evils which attended them. I declared that I could not vote for making either the present system of transportation, or that of confining prisoners in the hulks, perpetual; that I thought there were great defects in both, but particularly in the hulks; that, instead of reforming offenders, they only made them more depraved and more dangerous to society. The Committee which sat in 1812 had reported this to be the effect of these punishments; and yet we persevered in inflicting them, and in sending every young person to be tutored in these floating prisons, in every species of vice and of villainy. It appeared by the returns made to the House, that at the present moment there is one boy in the hulks who is only 11 years old, two who are only 12, one who is only 13, and four who are only 14; and, altogether, no fewer than 112 who are under the age of 20. I mentioned the bad effects of our punishments and our police towards preventing crimes, and showed how, under our present system, the number of offenders in the metropolis had been gradually increasing; and I mentioned the number of persons committed for trial at the Old Bailey for eight years down to 1813, in proof of this.† To whatever cause such an increase

Transportation of felons and imprisonment in the hulks.

Increase of crimes in the metropolis.

* Bonaparte returned after his defeat hastily to Paris, and on the 22nd of June he abdicated the throne.

† The numbers were as follows:—

In 1806	.	.	899	In 1811	.	.	1252
1807	.	.	1017	1812	.	.	1397
1808	.	.	1110	1813	.	.	1478
1809	.	.	1242	1814	.	.	1413
1810	.	.	1214				

of crimes, (the more remarkable as it happened during a time of war, in which the commission of offences generally is diminished,) to whatever cause it was to be ascribed, whether to our laws or to our police, it must be admitted that it was extremely reproachful to the country, and that it was our duty to inquire into it, and to supply a remedy if it were possible. It was too late in the Session to do this at present; but I said that I hoped that the House would merely pass a Bill to continue the present Acts as long as should enable the House, early in the next Session, fully to inquire into the subject. This suggestion was adopted, and the Bill was in the Committee made to continue only till the 1st of May next.

24th, Sat. The Lord Chancellor, who has been long *The Lord Chancellor.* confined with the gout, sat to-day (in Lincoln's Inn Hall) for the first time since the sittings after Easter term. It was said, before a Vice-Chancellor was appointed, that a resource always in the Chancellor's power for clearing off the great arrear of business in his Court was to be ill and incapable of attending:—a year's illness of his Lordship, it was formerly observed, would enable the Master of the Rolls, who upon such occasions was always accustomed to supply the Chancellor's place, to get rid, with his ordinary despatch of business, of the whole arrear. But the Vice-Chancellor, who is even much slower in hearing causes than the Chancellor, though he has not the additional defect of never deciding what he slowly hears, has done scarcely anything in the Chancellor's absence; and the delay and impediments in the decision of causes have become a most grievous and intolerable evil to the suitors. Amongst the other obstructions to the prosecution of suits, has been the Chancellor's delay in the appointment of a Master in the place of Mr. Morris. That gentleman died on the [13th] of [April] *Jekyl a Master in Chan-* last, and it was only yesterday that Mr. Jekyl *cry.* was appointed to succeed him. The Prince's favour has procured him that appointment. As soon as the vacancy happened, it was known that Jekyl was to be appointed. The Chancellor, however, has delayed all this time filling up the office, at very great inconvenience to the suitors, only, as it should seem, to

show his sense of the impropriety of the appointment ; and a more improper one could hardly be made, for, with a thousand good and amiable qualities as a private man, and with very good talents, Jekyl is deficient in almost every qualification necessary to discharge properly the duties of a Master in Chancery. If the Chancellor had meant to show with what deliberation he could make a bad appointment to a very important judicial office, and with how strong a sense of the impropriety of it he could surrender up to the Prince that patronage which it is a duty he owes to the public to exercise himself, he could not have contrived matters better than he has done. His conduct, indeed, had been nearly the same when he appointed Mr. Stephen a Master in Chancery ; that gentleman had never practised in that Court, and, though a man of very considerable talents, he had not the character of being a lawyer, and his services in parliament were understood to be his only recommendation. The Chancellor was said to disapprove of such a political appointment to so important a judicial office, but, after a very long delay, he most deliberately made it.

30th, Fri. The Chancellor's illness has been the cause of suspending for a long time all proceedings in the House of Lords on my Bill for subjecting freehold estates to the payment of simple contract debts. Lord Grenville, who had considered, and made himself quite master of the subject, would have brought it on some time ago ; but Lord Ellenborough desired that it might be deferred till the Chancellor could attend, who, he said, had many weighty objections to urge against the Bill. Lord Grenville yielded to this, but said, that he must in consequence of it give up taking any part upon it, as he was impatient to go out of town. I then requested Lord Grey to bring the Bill on, which he very kindly and very willingly undertook, telling me that he highly approved it. I furnished him, as I had done Lord Grenville, with a written statement of all the objections to the Bill worth noticing that I have ever heard of, and which appear to me to be complete, and with answers to them. The debate came on yesterday

*Bill to subject
freehold
estates to
simple con-
tract debts.*

(June 29th) on the question of going into a committee. I was unable to attend, but I see by the newspapers of to-day that Lord Redesdale, the Chancellor, and Lord Ellenborough, all spoke against the Bill. If those reports are correct (which, however, they very seldom are), Lord Redesdale told the Lords that the measure, if adopted, would bring almost all the freehold estates in the kingdom into the Court of Chancery, and would be the means of annihilating, in a course of years, all small freeholds. The Chancellor spoke with admiration of that regard which our ancient law had always had for landed property; deplored the ruinous expense of Chancery proceedings; and said, that if every simple contract creditor had not a security which would affect land, it was his own fault, and "vigilantibus non dormientibus," &c.: and Lord Ellenborough said, that such dangerous innovations tended to destroy the law of primogeniture, and to reduce all lands to Gavelkind tenure. Such nonsense could not have been talked if there had been any lawyer in the House to have answered it; and, probably, no such nonsense was talked, for there should be better authority for it than that of the blundering and ignorant newspaper reporters before it can be credited. Those three Lords, however, all strenuously opposed the Bill, and it was of course rejected. Lord Grey, who appears to have very well supported and defended the Bill, thought it most prudent not to divide the House. My present intention is to bring the Bill on again in the next session.

July 4th, Tu. Sir Henry Parnell moved an address to the Regent to appoint a commission to inquire into the nature and effects of the Orange Societies in Ireland. I voted for the question, and, as is always the case in important questions of this kind relative to Ireland, in a very small minority. We were only 20, the majority being upwards of 80.

5th, Wed. On the motion of Lord Ellenborough, the *Punishment of* Bill for abolishing the punishment of the *pillory*. pillory was rejected by the House of Lords. He admitted that it ought not to exist as a punishment in all the cases in which it may now be inflicted,

but said that the subject required consideration, and ought to be referred to the Judges* (observe that the Bill has been now more than two months depending in the House of Lords). He talked about the antiquity of the punishment both in England and the rest of Europe, and said that it was mentioned by Fleta, and that its antiquity appeared from Ducange; and, as usual, declaimed against innovation.† This is the fifth Bill sent up by the Commons, in the course of the present Session, for making very material improvements in the law, which has been rejected at the instance of Lord Ellenborough and Lord Redesdale. The four others were—1st, The Bill to render the remedy by habeas corpus more effectual, which was the same as one drawn in the latter end of the reign of George II. by Mr. Justice Foster, and then approved by all the Judges. 2nd, The Bill to prevent the binding poor children apprentices at a great distance from their parishes. 3rd, The Bill to make freehold estates assets for the payment of simple contract debts. 4th, The Bill to prohibit British subjects embarking their capital in the foreign slave-trade. Except this last, all these Bills passed the Commons without one dissentient voice.

Yesterday, *July 4th*, the thanks of the House of Commons were voted to the Duke of York, upon the motion of Sir J. Majoribanks, the Lord Provost of Edinburgh. The Duke has, I believe, great merit; but to vote thanks to a Commander-in-chief, or any other person at the head of any ministerial department, merely because during his administration a

Very beneficial Bills, which had passed the Commons unanimously, rejected by the Lords.

* On the 10th of July, 1815, the House of Lords ordered the Judges to prepare and lay before the House a Bill for reducing into one Act all the laws now in force which impose the penalty of the pillory.

† In the next year an Act was passed for abolishing the punishment of the pillory in all cases, except perjury and subornation of perjury.—See Stat. 56 Geo. III. c. 138.¹

¹ The punishment of the pillory was finally abolished in all cases by 1 Vict. c. 23.—ED.

great victory has been obtained, was never before heard of, and was a piece of gross adulation in the person who moved it. I waited, with great inconvenience to myself, a long time to vote against it, but was at last obliged to go to the Rolls, before I had any opportunity of voting or speaking. I see by the newspapers that Sergeant Best took that opportunity of pronouncing a high panegyric on the Regent.

6th, *Th.* Poor Whitbread this morning destroyed himself, as it should seem, in a sudden fit of insanity. His friends have, for some time past, felt great anxiety about him. His health has been manifestly declining, and though he spoke, only two days ago, in the House of Commons, against the vote of thanks to the Duke of York, he has, I understand, for some time past, occasionally discovered an unaccountable despondency. A greater loss the country could not at the present moment experience than it has suffered in poor Whitbread. He was the promoter of every liberal scheme for improving the condition of mankind, the warm and zealous advocate of the oppressed in every part of the world, and the undaunted opposer of every species of corruption and ill-administration. The only faults he had proceeded from an excess of his virtues. His anxious desire to do justice impartially to all men certainly made him, upon some occasions, unjust to his friends, and induced him to give credit and to bestow praises on his political enemies to which they were in no respect entitled.

(3rd. Paris capitulated to the Duke of Wellington and Marshal Blucher.

8th. Louis XVIII. re-entered Paris.)

Parliament prorogued. 12th, *Wed.* Parliament prorogued.

Bonaparte. Aug. 3rd, *Th.* Bonaparte has now been a short time in this country, but had not been permitted to land in it. After having delivered himself up, as he termed it, to the generosity of the English nation, he was brought by Captain Maitland, to whom he surrendered himself, to Torbay. From thence he was removed to Plymouth, where he still is on board the

Bellerophon, Captain Maitland's ship. It is the intention, it seems, of Government, to send him very shortly to the island of St. Helena. The newswriters are in the daily habit of loading him with the lowest and meanest abuse; while some individuals take a very strange interest in his fate. Sir Francis Burdett called upon me this *Sir Francis Burdett.* morning, and told me that, if moving for a writ of habeas corpus would procure him his liberty, or in any way be useful to him, he would stand forward to do it. I told him that I thought that Bonaparte could not possibly derive any benefit from such a proceeding.

6th, Sun. I received a letter from General Savary (Duke of Rovigo), of which the following is a copy: he was to me a total stranger.

“ Monsieur le Chevalier,

“ A bord du Bellerophon,
“ Plymout, le 1^{er} Aout, 1815.

“ La réputation dont vous jouissez et le caractère personnel bien connu que vous y avez réuni m'ont donné la confiance de solliciter le secours de vos lumières, dans une circonstance où l'honneur du pavillon Britannique est autant compromis que ma sûreté personnelle est menacé de l'être, pour y avoir eu confiance. Je vais vous exposer ma situation, et vous prie de m'accorder vos conseils et votre assistance dans cette affaire, que je n'ai nul moyen de suivre dans un pays où je suis tout à fait étranger.

General Savary's letter from on board the Bellerophon.

“ Mon nom seul vous expliquera comment j'ai été amené dans ce pays à la suite de l'infortune la plus illustre dont l'histoire nous a rapporté la souvenir.*

* The faults of spelling and grammar in this copy are all to be found in the original.¹ In the same cover as contained the letter of Savary and the copies of the letters referred to in it, was enclosed a paper not in any manner mentioned or referred to in any of the letters; it was entitled “ *Considérations sur Napoléon Bonaparte et sa situation civile et politique en abordant en Angleterre;* ” and in the margin was

¹ In a subsequent letter from Savary, no such faults are to be found. Vide *infra*, Jan. 10, 1817.—ED.

“ Je suivois l’Empereur Napoleon lors qu’un concours de circonstances l’ont determiné a venire chercher un azile sur les vaisseaux de votre nation, après s’être assuré d’avance de l’inviolabilité de sa personne et avoie recu des paroles positives de protection de la part des loix Angloises qui etaient au dessus de la volonté des Ministres.

“ C’est dans cette confiance que nous montames à bord du Bellorophon dont le capitaine nous declara étre autorisé à nous recevoire : nous dumes donc nous considerer comme sous la protection des loix Angloises et des lois inviolable sans leur concours : depuis notre arrivée en le port, sous pretexe d’une coutume ou loi envers les estranges, nous y somme depuis huit jours soumis à un sequestre rigoureux jusqu’à ridicule, et que les politesses les plus observées ne suffisent pas pour rendre suportable.

“ Hier un messager du Gouvernement est venu notifier à l’Empereur la resolution des Ministres du Roi qui l’oblige à aller à St. Helene : vous etes jurisconsulte, Monseieur le Chevalier, il est inutile que je traite avec

written, “ Tirer des extraits pour les papiers publics, et faire de ce document les bases d’un plaidoyer célèbre et digne du talent et de l’ame élevée d’un bon Anglois, et meriteroit la reconnaissance et le suffrage de tous les coeurs grands et généreux.” In this paper three questions are discussed.—“ 1. Quels seroient les droits du gouvernement sur Napoléon s’il étoit prisonnier de guerre ? 2. Napoléon est-il prisonnier de guerre ? 3. Enfin l’ordre donné par le Gouvernement Anglois au Capitaine Maitland de le recevoir, lui et sa suite, pour le mener en Angleterre, s’il se presentoit, ne l’a-t-il pas admis de fait à la protection des lois du pays ? ” The most remarkable passage in this memorial is one, in which it is represented that Bonaparte, when he went on board the Bellerophon, might still, if he had remained in France, have been extremely formidable :—“ Le General Clauzel,” it observes, “ tenoit à Bordeaux à la tête d’une armée, et l’on sait que c’est un de ses plus chauds partisans. Le General Lamarque tenoit à Nantes et lui est également dévoué. Les garnisons de Rochefort, de l’isle d’Aix, étoient tout à lui. Le pavillon tricolore flottoit partout. Davoust arrivoit sur la Loire, et pour tout dire en un mot, ce n’est qu’après l’appareillage du Bellorophon que le pavillon blanc a été arboré dans le pays. Il étoit donc le maître de demeurer en France à la tête de corps considérables, et pouvoit au moins faire des conditions : contester ces faits c’est contester les dates, les époques de la soumission des troupes et du déploiement du pavillon blanc.”

vous cette matière qui ne peut eschapper au burin de l'histoire.

“ Dans cette notification un article expresse m'excepte nominativement ainsi que le General Lallemand du nombre des personnes par les quelles il est permis à l'Empereur de se faire accompagner.

“ Si cette exception n'est que la conséquence d'une opinion que le Gouvernement Anglois a de mon caractère particulier, il a prendre le droit de me separer de l'Empereur dans les même loix dont il la atteint lui même; mais il me semble que cela ne peut compromettre en rien ma liberté individuelle qui est ma propriété, et que je ne puis perdre que par le concour de l'action civile, puisque je n'ai point combattu, et que je ne me trouve sous le Pavillon Britannique, que par suite d'une transaction verbale entre le Capitaine du Bellorophon et moi.

“ Le Gouvernement peut bien la désapprouver, l'annuller même si il croit le pouvoir, mais il ne peut jamais en resulter la perte de ma liberté parcequ'en detruisant l'acte il en detruit les conséquences.

“ Je ne puis être prisonnier puisque c'est comme démissionnaire qui je me suis rendu à bord.

“ Mais un autre inquiétude m'occupe d'avantage, Monsieur le Chevalier; il vient de paroître en France des listes de proscription qui sont des conséquences naturelles des maux qui devorent ma malheureuse patrie; les révoltes les amènent toujours, et si la sagesse ne preside pas au conseil, les vengances, et les passions compriment la justice.

“ La coincidence de l'inconcevable exception que le Gouvernement Anglois a fait de moi avec l'apparition de la proscription fait entrer dans mon esprit le soupçon que cette mesure pouvoit être suivi de ma translation en France; quelque odieuse que me soit cette pensée elle est en moi je vous l'avoue, et je viens Monsieur vous communiquer tout ce qu'elle ma suggeré d'écrire à Monsieur l'Amiral Keit et au Lord Melleville premier Lord de l'Amirauté. J'y joins une copie de la lettre que le capi-

taine du Bellorophon lui a écrit lui même comme ayant son honneur compromis dans cette affaire.

“ Je sollicite votre appuy Monsieur et vous prie d'évoquer de ma reclamation devant qui de droit, j'ai signifié à Monsieur le Capitaine du Bellorophon, que je ne sortirois point de son vaisseau, autrement que pour passer sous la protection d'un magistrat, et que si la violence etoit employé pour m'obliger j'employerois mes armes pour me deffendre me reservant de partire de cette declaration pour poursuivre devant les tribunaux l'acte intenté contre moi. Cecy posé Monsieur je vous prie de me dire ce que je puis encourire, si j'ai le malheur de tuer quelqu'un en me defendant avant d'avoire recu l'assurance que ma sureté seroit respecté : si l'on se croit le droit de me faire prisonnier, je dois etre protegé par les loix de la guerre, dans ce cas la translation seroit une honte ; si je ne suis pas prisonnier j'invoque la loi commune et la même translation devient un crime personnel a ceux qui l'auront signé et execute ; mon intention est de laisser après moi de quoil les poursuivre.

“ Quand je suis venu à bord du Bellorophon, je connoissois la justice qui avoit été faite du gouverneur de Gibraltar pour un cas semblable.

“ Le Roi Louis 18., lui même fit, il y a un an, destituer un agent civile, dela ville de Paris qui avoit osé dans la capitale même et sur l'invitation de l'ambassadeur d'Espagne y faire arretter un chef d'insurgés Espagnole qui s'étoit armé contre le retour des abus qui étoient rentrer en Espagne avec Ferdinand 7.

“ L'Angleterre a eu ses revolutions et la France est peuplé de famille Angloises qui sont venu y chercher azile, aucune n'a été livré. Les peuples d'Afrique respectent l'hospitalité ; l'Angleterre refuseroit elle appuy à l'infortuné, et seroit elle reduite à lui tendre des pieges pour en abuser.

“ Voici, Monsieur le Chevalier, ma situation, je vous demande votre secours pour l'améliorer : je n'ai pu obtenire de l'amiral Keit de communiquer avec un homme de loi de cette ville comme vous verrez que je l'avois demandé. Ayez la bonté de devenir mon guide dans une

affaire qui est commune au General Lallemand et à moi, et croyez Monsieur que quelque isçue quelle puisse avoire, elle ne diminuera en rien notre reconnaissance pour une aussi genereuse obligeance.

“ Je saisis cette occasion, Monsieur, de vous offrire l’assurance de ma plus haute considération.

“ LE DUC DE ROVIGO.”

This letter enclosed copies of General Savary’s letters to Lord Melville and to Lord Keith (which are not worth preserving), and of Captain Maitland’s letter to Lord Melville, which was in these words:—

“ H. M. S. Bellerophon, Plymouth Sound, 31st July, 1815.

“ My Lord,

“ I am induced to address your Lordship in consequence of having observed, in the intimation delivered to Napoleon Bonaparte, of the number of persons allowed to accompany him to the island of St. Helena, that the names of Savary and Lallemand are expressly excepted; which, together with their being proscribed in the French papers, has created in them a belief that it is the intention of His Majesty’s Government to deliver them up to the King of France. Far be it from me to assume such an idea; but I hope your Lordship will make allowance for the feelings of an officer, who has nothing so dear to him as his honour, and who could not bear that a stain should be affixed to a name he has ever endeavoured to bear unblemished.

“ These two men, Savary and Lallemand (what their character or conduct towards their own country may be I know not,) threw themselves under the protection of the British flag; that protection was granted them with the sanction of my name: ‘tis true no conditions were stipulated for; but I acted in the full confidence that their lives would be held sacred, or they never should have put foot in the ship I command, without being made acquainted that it was for the purpose of delivering them over to the laws of their country.

Captain Maitland’s letter to Lord Melville.

" I again beg leave to repeat to your Lordship, that I am far from supposing it to be the intention of His Majesty's Government to deliver these men over to the laws of their country ; but as they are strongly impressed with that belief themselves, and I look upon myself as the cause of their being in their present situation, I most earnestly beg your Lordship's influence may be exerted that two men may not be brought to the scaffold, who claimed and obtained at my hands the protection of the British flag. I have the honour to be, with much respect, your Lordship's most obedient humble servant,

" (Signed)

" FREDERICK L. MAITLAND—Captain.

" To the Right Honourable Viscount Melville, &c."

7th, *Mon.* Having desired to see the Lord Chancellor this morning, before he went into Court, I ^{Interview} with the *Lord* Chancellor. apprized him of the letter I had received. I told him that Savary was an entire stranger to me, but that I thought myself bound, as he had no friends here, to do what I could for him ; and that the only thing useful which it appeared to me that I could do, was to make a representation to the Chancellor of what I had learned from him. I then stated to the Lord Chancellor the General's apprehensions that it was intended to deliver him up to the French Government ; and that, when he went on board the Bellerophon, Captain Maitland had declared to him that he was authorised to receive him ; and that he and those who accompanied him considered themselves as coming under the protection of the English laws ; and that this indeed was expressly stated to them ; and I here read to the Lord Chancellor that part of Savary's letter in which this is affirmed. I told him that Savary had signified to Captain Maitland that nothing but force should remove him from his ship, unless it were to pass under the protection of a magistrate ; and this, too, I stated to the Lord Chancellor in Savary's own words. I also told him that when Savary entered on board the Bellerophon, he recollects that our Ministers had themselves condemned the conduct

of the Governor of Gibraltar with respect to the Spanish refugees ; and I then showed the Chancellor the copies of Captain Maitland's letter to Lord Melville, and of Savary's letters to Lord Keith and to Lord Melville. The Chancellor heard me with great attention. He then said that Captain Maitland's letter he had seen before, but the two other letters were new to him : that he believed there was no intention in Government to deliver up Savary or Lallemand to the French Government ; but that he mentioned this to me in confidence ; and that it was not yet determined what was to be done with them. He said that Captain Maitland had been directed to state exactly what had passed between him and Bonaparte and his Generals, before he received them on board his ship ; but that his statement in compliance with this requisition had not yet been, and could not have been, received. I said that I wished to answer Savary's letter, merely to tell him that I could render him no other service than to make the statement which I had done to the Lord Chancellor, and that I purposed sending my letter under a cover addressed to Captain Maitland. The Lord Chancellor then told me that he believed the Bellerophon was no longer at Plymouth ; that orders had been sent for her to sail from that port ; and that the Northumberland was to meet her at sea, when Bonaparte was to be removed to that latter ship, and to proceed immediately to St. Helena. How strange that all this should have been determined on and carried into execution before Ministers knew with certainty and exactness what passed between Captain Maitland and Bonaparte, and in what manner Bonaparte understood that he was received on board a British ship ! The Chancellor asked if I had any objection to his mentioning to Lord Melville what had passed between us, to which I answered, Certainly not. He then said that a council was to meet again to-morrow on the subject of these Generals of Bonaparte, for that nothing was yet determined respecting them.

8th. The Lord Chancellor sent for me into his room at Lincoln's Inn Hall, and said that he wished, before he went to the council, that I would refresh his memory

with what I had stated yesterday. I did so, and wrote and delivered to him a copy of that part of Savary's letter which states under what circumstances he, together with Bonaparte and Lallemand, were received on board the ship.*

I wrote to Savary, merely to inform him that I had stated his case to the Lord Chancellor, as being the only step which I thought I could take usefully for him. I told him, too, that if, in resisting force to remove him from the Bellerophon, any person should be killed, I thought that it would be deemed murder by our tribunals; and I enclosed my letter to Captain Maitland, desiring him to deliver it.

20th, Sun. I set out upon a journey to Geneva, to see my son William. My dear Anne, my daughter, and my son John accompanied me. I was desirous of avoiding a disagreeable journey through France, overrun as it is at the present moment with foreign troops. We determined therefore to pass through Flanders, and, travelling along the banks of the Rhine, to get by Schaffhausen or Basle into Switzerland.

Our journey was a very delightful one, and performed in the finest weather imaginable. We crossed the sea at Dover, and passed through St. Omer, Lisle, and Tournay, to Brussels. We were very much struck with the excellent cultivation of the country we passed through, and with the appearance of prosperity and of an abundant population which everywhere presented itself to our view, notwithstanding the long and destructive war in which France has been for so many years engaged. In almost all the towns we passed through we saw the remains of the public rejoicings and illuminations which had recently taken place for the restoration of the King to the throne of France. Brussels was crowded with English, great numbers of whom had crossed the sea from Margate and Ramsgate, and other watering-places, that they might gratify their curiosity in gazing on the field where

* Savary and Lallemand were afterwards sent by our Government to Malta.

the battle of Waterloo was recently fought. Our road lay across it; for we were advised to take Namur in our way to Liege, and on the high road to Namur was the field of battle. The battered walls of a farm-house pierced with bullets and cannon-balls, and the remains of a villa consumed by fire, were the only vestiges of the late devastation which remained visible. At the little village of Genappe, where we slept, the shutters and the walls of the room we supped in were pierced with musket-balls; and at Namur, the next day, we saw everywhere the marks of the sanguinary battle which had been fought upon the bridge over the Sambre in the centre of the town. From Namur we passed, on the banks of the Meuse, which we crossed at Huy, to Liege. Nothing can exceed the beauty and variety of the scenery on both banks of the river. From Liege we passed on to Aix-la-Chapelle, and so on to Bonn, Cologne, Coblenz, and, by the magnificent road which Bonaparte has made on the left bank of the Rhine, to Bingen, and from thence to Mentz. We then proceeded to Frankfort on the Main, and from thence to Darmstadt, and to Heidelberg, most beautifully situated on the Neckar. We then visited Carlsruhe, and passed through Rastadt to Offenburgh; and from thence through the valleys of Kinzig and Guttark to Hornberg, the most beautiful and picturesque town I ever beheld; and then passing through Donauchingen, we arrived at Schaffhausen. After visiting the fall of the Rhine, about two miles out of the town, we proceeded to Constance, and from thence to Zurich, Berne, Lausanne, and Geneva. At Geneva I met my excellent friend Dumont, and formed an acquaintance with Sismondi, the historian, with M. Bonstetten, and with the Professors Prevost and Pictet, or, I should rather say, renewed my acquaintance with the latter. The *Geneva.* people of Geneva have more reason to rejoice, and do in truth feel more unmixed joy at the events which have lately taken place, than the inhabitants of any other part of Europe. Those events have secured to them that liberty and independence which they had recently recovered, and have delivered them from the

greatest danger that any state was threatened with. The society of Geneva I own a little disappointed me; they have a great deal of literature and of science, but still their conversation seems rather too much confined to the trifling topics which generally occupy the attention of a provincial town; and cards for the old, and dancing for the young, are the never-failing substitutes for conversation.

Sept. 14th, Th. We set out with Dumont and William on a little tour to the glaciers of Savoy. But after the first day we had bad weather; and the Mont Blanc, which, from Morges and Geneva, had appeared to us in all its magnificence, without a cloud to intercept for an instant the beams of the setting sun with which it was illuminated, was, upon this our nearer approach to it, enveloped in clouds, and to us invisible. We saw and passed over the Glacier des Bossons; but the weather was too bad to admit of our ascending Montanvert or visiting the Mer de Glace. The Glacier des Bossons is rapidly extending itself; and, if it continues to advance in future as it has done during the last three years, in five years more it will have passed across the road, and in twenty years will have extended itself across the whole valley.

17th, Sun. We returned to Geneva in the evening; but time enough to be present at a national festival celebrated on the lake, in honour of what they call *Le Roi de la Navigation*.

20th, Wed. Dumont and William accompanied us on *Tour in a very small part of Italy.* a little excursion into a part of Italy. Our project was to pass the Alps over the Simplon, to see Milan, Genoa, and Turin, and return over Mont Cenis; and we accomplished it very successfully, and got back to Geneva on the 7th of October. We passed through Thonon and Evian in Savoy, and over the fine road which Bonaparte has lately constructed, at a very great expense, on the south bank of the Lake of Geneva, under the rocks of Meillerie. Even in this sequestered and romantic spot we found the remains of the ravages of war. The shattered walls of the cottages and houses of Meillerie bore testimony to the

action which, only a few months ago, took place there between a part of the French and Austrian armies. The Valais did not appear to me, from the little *The Valais.* I could learn and observe in rapidly passing through it, to be that seat of happiness and innocence which Rousseau and other writers have represented it. The Government is severe and tyrannical, and the people ignorant in the extreme. In the whole state there is not a single bookseller, not even at Sion, the capital. A person of that trade, not long ago, set up a shop there, but was soon obliged to give it up for want of customers. The road over the Simplon, made with such immense labour, and at so enormous a cost (one of the most wonderful productions of human art and perseverance, and formed amidst some of the wildest and most dreary scenes in nature), and which seemed alone sufficient to transmit the name of Bonaparte to the most remote generations, is rapidly falling into decay, for want of a comparatively trifling expense at which it might be maintained: and, as if time and accident were too slow in their progress, many individuals have, in different places, occupied themselves in hastening this work of destruction. At Milan *Milan.* almost everything that is grand and splendid in the external appearance of the city is connected with the name of Bonaparte. The amphitheatre, the unfinished triumphal arch, the Brera collection of pictures, and the cathedral (so long in building, but so rapidly advanced and nearly completed within the few last years), are all his works. It is much less, however, in public edifices and monuments than in the manners and character of the inhabitants that the French dominion appears to have had a very beneficial influence in Italy. Several instances were mentioned to me; but the most striking was the diminution of the number of assassinations. *Assassinations.* They had almost ceased under the French government; but since the restoration of the ancient order of things, accompanied with the facilities for refuge which small neighbouring states and the asylums of the Church afford, they have become as frequent as ever. Sismondi

mentioned to me that, in the town of Pescia, with which he was particularly acquainted, the assassinations, both before it belonged to France and now again that it has been delivered from French dominion, were, and still are, on an average one in every week ; though, while the town was dependent on France, scarcely any assassinations had been committed. Dreadful, indeed, are the evils which Bonaparte has brought on the human race ; but he must be strangely prejudiced who can deny that, in Italy at least, against those evils are to be set some very considerable benefits of which he is the author.

I was enchanted with the beauty of Genoa. Its port, *Genoa.* its lighthouse, its palaces and churches, and public edifices, the adjoining hills, studded with villas, and the fine mountains of the Apennines behind them, form altogether a scene more striking and beautiful than any that I had ever before beheld. It is impossible, however, to see this magnificent city, filled as it is with the monuments of its ancient prosperity and renown, and to behold the fine race of inhabitants that crowd its streets, without feeling the most lively indignation against the base and unprincipled policy of England and the other great powers of Europe, who have lately taken on themselves to deliver over this whole state, with all its territory, into the hands of a narrow-minded and bigoted Prince, a stranger to them, disliked and despised by them, and who never had any pretensions to aspire to dominion over them.

The King and Queen of Sardinia were lately here, and *King of Sar- dinia.* endeavoured by their courtesy and affability to ingratiate themselves with their new subjects. The only public acts, however, which they did, were that the King, finding that an ancient monastery had been converted into a cotton-manufactory, turned out all its active and industrious inhabitants—men, women, and children—to reinstate a dozen Capuchins, all that could be found of its former inmates ; and that the Queen assisted with great pomp at the ceremony of a young woman taking the veil. The first acts of the King's government at Turin have been in the same spirit. He has sent away

every French family in the town, and has expelled all the Jews who had established themselves there. Prince Koslofsky, the Russian Ambassador at Turin, told me that he represented to the Minister that, if he wished to show what the true nature of this measure was, he ought to have prefixed some such preamble as this to the edict,— “Whereas his Majesty finds in the metropolis a mass of population and of capital which he considers as burdensome, and is therefore desirous of seeing dispersed and distributed amongst other states, it is ordered,” &c. They tell a story at Turin, which has perhaps been only invented to throw ridicule on the proceedings of the Court. When the King returned to that city (Turin), he brought back with him an old gardener, who had accompanied him to Sardinia. That faithful servant, when he first revisited the royal garden, and found in it a number of new and curious plants from New South Wales and other remote parts of the globe, with which the French had enriched it, manifested his loyalty by tearing them up by the roots, and trampling them under foot as Jacobin innovations.

We stayed but a few days at Geneva on our return, and then proceeded by the road of Macon, Autun, and Auxerre, to Paris.

At Paris I renewed my acquaintance with several persons whom I had formerly known there, particularly Lafayette, the Duke de la Rochefoucauld (formerly Liancourt), my excellent friend Gallois, and Delessert, and with MM. Morellet, Suard, &c.

We arrived at Paris just after all the pictures and most of the statues claimed by foreign states had been removed from the gallery of the Louvre. The rest were carried off while we were there. It was by English soldiers that this was done: on the English all the odium of the measure has fallen; and it is astonishing how great that odium is. Till this event happened, the English, whose recent good conduct had been contrasted with the rapacity and brutality of the Prussians, were very popular; but that popularity has been suddenly succeeded by the most bitter hatred. It is hardly to be conceived by any

*Removal of
the monuments
of art from
the gallery of
the Louvre.*

one who had not been an eye-witness of it, what a degree of importance the French, or at least the inhabitants of Paris, of all ranks and descriptions, attached to this national gallery. A woman of very mean condition, who was lamenting over its loss, was asked by a friend of mine why she took such an interest in the matter, and what she knew of statues and pictures. Her answer was,—I understand nothing about them; but I know that they have attracted strangers here from all parts of Europe; that they have excited the admiration and the envy of other nations; and that they were purchased with the blood of our sons and our brothers. This seems to be the general feeling of the people.* As if the act itself was not sufficiently odious, those who undertook to execute it seem to have studied how they could most mortify the nation, and strike deep into their hearts the stings of hatred and resentment. The spoliation of the gallery lasted for many weeks; it was carried on principally in the middle of the day, when the streets were most peopled; and, as the statues were removed singly, it was day after day, and hour after hour, that the crowds that thronged the streets had to make way for the ostentatious carrying off, by British soldiers with fixed bayonets, of some fresh trophy over their humiliation and disgrace.

Paris presented, while I was there, a very extraordinary *State of Paris.* spectacle—a metropolis in a state of peace, but yet given up to a foreign army; the King appearing to be possessed of no authority, but remaining a quiet and indifferent spectator; while foreign commanders affected to inflict punishment on the nation, and, according to the language of the Duke of Wellington, in his letter of justification, to make them an example to after-times. Legislative assemblies pretending to debate, while the streets were filled with troops, and while loaded cannon were stationed on the neighbouring quays, and soldiers ready with lighted matches, that not a moment might be

* A print was published at this time at Paris, which was a portrait of the Duke of Wellington, with an inscription under it of "Blucher;" a double satire, the meaning of it being that Wellington was the most barbarous of conquerors.

lost, at the first appearance of danger, in taking a signal vengeance on the inhabitants ; and during all this time a treaty of peace is negotiating—a peace, it must unquestionably be, just such as the conqueror chooses to exact from the conquered. That a peace of long duration can arise out of this seems hardly possible ; and yet the victory of Waterloo and all the successes of the war could to us be a subject of real joy only as they enabled us to lay the foundations of a solid and permanent peace.

The unhappy King, to whom nothing but the basest adulation can have given the name of the “ long *The King of France.* desired,” seems so little to have been wished for by his subjects, that he has been obliged to come among them in the train of an insolent invading army ; and that it is by those invaders that he is at this moment maintained upon his throne. Never, surely, was humiliation greater than that which must be suffered by this ill-fated prince, condemned from the very windows of his palace to see, with shame, foreign armies giving the law to what his predecessors used to call their good city of Paris.

The French bitterly complain of the perfidy of the allied powers. They approached Paris professing *Alleged perfidy of the allied powers.* hostility only to Bonaparte and those who were armed in his support ; and when with these professions they had lulled the country into a fatal security, when they had succeeded in numbing the feelings of the people, when they had gained possession of Paris by a convention in which safety was promised to all who had acted under the usurper, and when they had induced the army which was on the banks of the Loire to disband,—then, and not till then,—not till by artifice they had made all resistance impossible,—did they begin to talk about inflicting punishment on the nation, and requiring from it securities, and exacting indemnities and contributions.

The more reason the nation imagines it has to complain of the allied princes, and the more bitter its *Instability of the present French Government.* hatred against its invaders, the more unpopular must the present Government be ; for it is impossible for the people to forget that it is to their King

that they owe all the calamities of the last invasion, and that the contributions, and the severe terms which they fear will be imposed on them by the treaty, are the price they are to pay for the King's restoration.

From all I observed during my short stay at Paris, I cannot think that, when the foreign armies shall be withdrawn from the country, the present Government can maintain itself. If it does, it will certainly be from the difficulty of knowing what to substitute in its place, and not from the attachment of the people.

We returned to England at the end of October.

Oct. 28th. Arrived at Tanhurst.

30th. London.

Nov. 20th. The treaty of Peace with France signed.

Dec. 16th. On this day died the Duke of Norfolk, after an illness of several months. Though an old man, he might have lived many years longer but for his indiscretion.

25th. I pass these Christmas holidays in town.

1816.

Jan. 10th. I went with Anne and some of our children to Cumberland Lodge, where I stayed till Saturday, January 13th.

Feb. 1st. Parliament met, this day being the day to which it had been prorogued.

I do not recollect any instance of a prorogation to so late a period. Parliament, it is true, has sometimes met after an unusually late prorogation. It has recess as late and even later than this. It did so indeed in the three last years; but then on each of those occasions it had sat before Christmas, and its proceedings had been interrupted, not as now by a prorogation by the Crown, but by the adjournment of the two Houses: there has, however, been no period of our history

in which more important events have passed, and upon which the counsels of Parliament (if they be of any utility) were more to be required than have passed during this long prorogation.

To the address upon the Regent's speech an amendment was moved by Mr. Brand, and seconded by Lord John Russell. The objects of it were, to *Amendments moved to the address.* censure the Ministers for not having called Parliament together sooner, and to pledge the House immediately to take into consideration the state of the country. The most considerable members of the Opposition thought it not advisable to divide the House; for it was known that a great many of our friends were absent, and that, of those who attended, the persons who adhered to the politics of Lord Grenville would not concur in any alteration of the address. Sir Gilbert Heathcote, however, a country gentleman, insisted, after a great number of Members on both sides had gone away, upon having a division. Though the House had been very full, and the division took place as early as half after nine o'clock, the numbers were only 23 for the amendment, and 90 against it, exclusive of the tellers on both sides. It was thought expedient by most of the Opposition to avoid touching, upon this occasion, on foreign politics, that we might delay a little longer the public expression of that difference of opinion which prevails amongst us. This did not at all agree with my inclination. I did not, however, enter into any argument on these matters: but I thought it necessary, on this the first day on which Parliament met after the Government had openly avowed and acted towards France on principles which they before had always disclaimed and protested against, to express my strong disapprobation of their conduct. I mentioned the manner in which the French nation had been deluded, by the professions made by the Allies of not interfering with the internal affairs of the state farther than to remove Bonaparte, to forbear making a resistance which they might, and, but for that delusion, certainly would, have made; and I stated my opinion that the peace was not likely to be durable.

Ponsonby, who has been called the leader of the Opposition, was absent, being detained in Ireland by the private concerns of his family. Whitbread's loss to the public will now be most severely felt.

7th, Wed. I moved and obtained leave to bring into Parliament a Bill to subject the freehold estates of persons who die indebted to the payment of their simple contract debts. I took occasion, in moving for it, to mention all the objections to the Bill which were stated last session in the House of Lords by the Chancellor, Lord Ellenborough, and Lord Redesdale, and to show the futility of those objections. No member said a word in support of any of them ; and the motion passed unanimously.*

Fri. 9th. Leach has vacated his seat in Parliament, by *Mr. Leach.* accepting the Chiltern Hundreds. This is preparatory to his taking the office of Chancellor of the Duchy of Cornwall, to which he is to be immediately appointed. Personal attachment to the Prince, who, he says, has always shown great kindness to him, is the excuse he alleges for accepting a favour from the Regent, to whose Government he has been constantly in opposition. The office, he says, is given to him on an express declaration that it is not at all to affect his political conduct ; but yet he does not think that it would be proper, while holding such an office, to appear in active opposition to the Regent's Ministers. He therefore retires ; and the man he is to bring in as representative of Seaford, of which he has the command, is Sir Charles Cockerell, who will invariably vote with Ministers. The plain meaning of all this is, that he has gone over to Government ; but, to avoid the ridicule and the reproach which commonly attend an immediate and sudden desertion of former friends, he wishes to interpose some decent interval between his past

*. This Bill passed the House of Commons without a word being said in opposition to it in any of its stages.¹

¹ It was again rejected by the Lords. See *infra*, June 19th, 1816.—ED.

and his future politics. His loss is not very great. His attendance on Parliament was not very constant; and, though he always voted, he never once spoke, on the side of the Opposition. Unless I am much mistaken, in the course of the eight or nine years that he has been in Parliament, he has only made four speeches, of which two were on matters which personally regarded the Regent, the third was in defence of the Duke of York, and the fourth was against the project of creating a Vice-Chancellor. He aspires undoubtedly to the highest offices, and is flattered with the expectation of succeeding Lord Eldon as Chancellor. His talents are certainly very considerable. He has great facility of apprehension, considerable powers of argumentation, and remarkably clear and perspicuous elocution: but with all this he is, of all the persons almost that I have known in the profession, the worst qualified for any judicial situation. He is extremely deficient in knowledge as a lawyer. All that he knows he has acquired, not by any previous study which would have enabled him to understand the general system of our law, and the grounds and reasons of its particular provisions, but by his daily practice. This has thrown in his way a great deal of desultory information, which a good memory has enabled him to retain. In judgment he is more deficient than any man possessed of so clear an understanding that I ever met with. If ever he should be raised to any great situation, his want of judgment and his extraordinary confidence in himself will, I make no doubt, soon involve him in some serious difficulty. This short sketch of his character would be incomplete if I did not mention the ambition he has of being thought to unite the character of a fine gentleman to that of a great lawyer. Constant attendance at the opera and at the gayest assemblies appears, in his opinion, to be as necessary to the support of his reputation as his presence in Westminster Hall; and he prides himself upon hastening every night from the dull atmosphere of the Rolls and Lincoln's Inn to the brilliant circles of high birth and fashion.

14th, *Wed.* It has long been the practice of *Irish grand juries* in Ireland to find bills of indict-

ment without examining any witnesses. They merely read the examinations taken before the magistrates who have committed the prisoners, which examinations are always returned to them; and on these alone they find or reject the bills. This appears to have been almost the universal course of proceeding, except in cases of rape, and in these cases witnesses are often examined. This strange practice, which in effect takes away from the people of Ireland the benefit of grand juries, has, it seems, the sanction of the Irish judges. The fact of bills being found on this evidence appeared by a report made last Session by a committee appointed to inquire into the proceedings of grand juries in Ireland; and Horner, who was a member of that committee, gave notice that he should, early in this session, bring in a Bill to declare the law upon this subject. He accordingly moved to-day for leave to bring in a declaratory Bill on the subject. Peel (the Irish Secretary) did not oppose the motion, but yet contended that the practice observed hitherto in Ireland was legal, and that, if a Bill were to be passed, it should not be a declaratory, but an enacting Bill; insisting that it would be very dangerous to give the countenance of Parliament to a notion that such important proceedings, which had taken place for such a length of time, had all been illegal. Sir John Stuart, formerly Attorney-General for Ireland, maintained the same opinion. He admitted that the common law of Ireland was the same as the common law of England; and yet contended that by law grand juries were not bound to require any other evidence to warrant their finding bills of indictment than the mere written and unauthenticated examinations returned by the magistrates. I combated this doctrine, and insisted that grand juries were bound themselves to examine the witnesses upon whose evidence the charge was preferred. I observed how great a security to the lives and liberties of men the institution of grand juries had always been considered; and how different in the estimation of the world was the reputation of a man against whom the grand jury had refused to find a bill from that of a prisoner acquitted by a petty jury; and that all the benefits of this institution were, by the prac-

tice adopted by the grand juries of Ireland, lost to that nation.

On the same day the Chancellor of the Exchequer moved for the appointment of a committee to consider and report to the House where a court could be built for the Vice-Chancellor (this was the object, though these were not the terms of his motion). As the building of a new court proceeded on the assumption that the Vice-Chancellorship was to continue a permanent office, I took this opportunity of observing that my opinion respecting the expediency of this measure was not at all altered, but, on the contrary, very much confirmed by the experience which we had now had of it for nearly three years: that all the evils which I had imagined would result from the measure had been experienced, and to a much greater degree than I could have supposed would, in so short a time, have been possible: that the Lord Chancellor, since the Vice-Chancellor had been appointed, had heard no original causes (two or three in the first year, but since that time he never even appointed days for hearing them); and that the appeals to the Lord Chancellor had increased from about twenty-four to upwards of seventy.

16th, *Fri.* I obtained leave to bring in a Bill to repeal the Act of King William which punishes the crime of privately stealing in shops, to the amount of five shillings, with death. I prefaced my motion with an answer to all the objections which, when the same Bill was last session rejected by the House of Lords, were urged against it by Lord Ellenborough and the Chancellor; and I endeavoured to disprove (and, I think, succeeded in doing so) the assertion that the repeal of the Act of Elizabeth had been the cause of an increase in the number of pickpockets. I adverted to the increase of crimes of all descriptions in the metropolis, and to the bad state of the police. Nothing was said in opposition to my motion.

19th, *Mon.* The debate on the late treaties of peace was commenced to-day in the House

The late treaties of peace.

Office of Vice-Chancellor.

of Commons, and, having been continued to a late hour, was adjourned to the next day,—

20th, Tu.,—when I took occasion to express my sentiments on them. The topics on which I principally dwelt had not been touched upon by any speaker who had preceded me; but most of them were afterwards very eloquently enforced in an admirable speech made by Horner.

I reminded the House of the frequent assurances which the Ministers had given that they had no other object in view than to dispossess Bonaparte of his authority; and how frequently, and how earnestly, they had disclaimed any intention of forcing upon the French nation any form of government, or any individual as their sovereign: that it was as late as in the last year that those assurances had been most solemnly renewed, and that the Ministers had treated the design of restoring the Bourbons to the throne as a most unjust and calumnious imputation on them. I observed that, by giving credit to these representations, the nation had been induced to make the greatest sacrifices to persevere in the war; and that, in the end, the Ministers had just done what it was always suspected that they intended, but which they had so repeatedly disavowed,—established, by a military force, Louis XVIII. on the throne: that the faith of Government had been pledged, on this point, to France, as well as to England; and that the most solemn assurances had been given the French that we would not interfere with their government, till, in a great degree, by means of those assurances, we had reduced them to a situation in which it was impossible for them to resist our interference. I read Lord Castle-reagh's declaration on the exchange of the ratifications of the treaty of the 25th of March, between England and the allied powers, in which he declared that the treaty was not to be understood as binding his Britannic Majesty to prosecute the war with a view of imposing on France any *Lord Clancarty's letter.* particular government; and the letter of Lord Clancarty, written from Vienna on the 6th of May, 1815, on the occasion of Bonaparte's overture for peace, in which he says that the allied powers "do

not desire to interfere with any legitimate right of the French people. They have no design to oppose the claim of that nation to choose their own form of government, or intention to trench in any respect upon their independence as a great and free people ; but they do think they have a right, and that of the highest nature, to contend against the re-establishment of an individual, as the head of the French Government, whose past conduct has invariably demonstrated that, in such a situation, he will not suffer other nations to be at peace." I had mentioned these papers shortly on the first day of the session ; and Lord Castlereagh, yesterday, observed that I had selected particular passages, and omitted the guards and correctives with which they were accompanied. As I read them, therefore, to-day, I (as he intimated his wish that I should do) read the parts which he thought material. He called on me particularly to read, in his own declaration, the words following : " However solicitous the Prince Regent must be to see his Most Christian Majesty restored to the throne, and however anxious he is to contribute, in conjunction with his Allies, to so auspicious an event, he nevertheless deems himself called upon to make this declaration on the exchange of the ratifications ; as well in consideration of what is due to his Most Christian Majesty's interests in France as in conformity to the principles upon which the British Government has invariably regulated its conduct." With respect to this passage, I said I knew not what the meaning of it was, or what mental reservation it indicated ; but I could hardly understand it in so odious a sense as that the interests of Louis XVIII. would be best consulted by lulling the people into a fatal security, that the pretensions of the Allies to seat him on the throne were not to be openly avowed till all resistance to them should have become impossible. That the French nation might be induced the more implicitly to rely on these assurances, Lord Clancarty appealed to the conduct of the Allies last year in these words : " It should seem that the glorious forbearance observed by the Allies, when masters of the French capital in the early part of the last year, ought to prove to the French that this is not a war

against their freedom and independence." I stated that this system of delusion of the French had been carried on quite to the moment of the convention of St. Cloud, by which Paris had been surrendered to the Allies. I mentioned that, when, after the battle of Waterloo, plenipotentiaries had been sent by the provisional French government

Plenipotentiaries from the French provisional government to Blucher and Wellington. to treat with Marshal Blucher and the Duke of Wellington for an armistice, though both those Generals had evaded treating with them, the Duke had had frequent conversations

with them, from their first obtaining an audience of him till his near approach to Paris, they attending him during his march; and that in the course of these conversations he had distinctly told them that the Allies were making war, not for Louis XVIII., but solely against Bonaparte: that the French were at liberty to choose what King they pleased; but that, if they chose any other than Louis XVIII., securities must be required for the allied powers, which, with him, were unnecessary; his personal virtues and his known character being considered by them as the best guarantee for peace that France at that time could offer; and he proceeded even to name to the plenipotentiaries individuals, and particularly one of the family of Bourbon, whom, if they thought proper, they might raise to the throne, but whom the Allies must consider as an usurper, though of illustrious birth, and with whom therefore they must insist on securities.* I had shortly mentioned these

* I was informed of these facts last autumn at Paris by Lafayette and Gallois, in different conversations I had with them; and Gallois made a short statement of them in writing, which, to be more correct, he showed to one of the plenipotentiaries, and had his confirmation of the accuracy of it before he delivered it to me. The five plenipotentiaries were Boissy d'Anglas, Valence, Andreossy, Flaugergue, and La Bernardière. A part of this statement was in these words:—"Dans l'une de ces conversations, le Duc de Wellington dit que les vertus personnelles, que le caractère connu du Roi Louis XVIII. étaient regardées par toutes les puissances comme la meilleure garantie que la France pouvait leur offrir en ce moment. 'Si les Français,' ajouta-t-il, 'voulaient un autre roi—le Duc d'Orléans, par exemple—ce serait un usurpateur, bien né sans doute, mais enfin ce serait toujours un usurpateur alors la France aurait besoin de plus

facts on the first day of the session, but neither then nor now did Lord Castlereagh take any notice of them. I then observed that it was not till after the French, relying on these assurances, had omitted to exert the powerful means of resistance which they still possessed, and after we had thus become the masters of the country, that we fixed the King upon the throne without regard to the people's wishes: that to me it appeared that the peace was a most insecure one, and would last only as long as all means of resistance and revenge were withheld from the nation: that the nation was exasperated by the deceit which had been practised, and the severe terms which had been imposed upon them; and that all descriptions of persons, even the Royalists as well as the rest, were eager to redeem their honour. To Lord Castlereagh's assertion that the treaty of peace had met with the general approbation of the French nation, I opposed the addresses of the legislative assemblies upon it to the Crown, and the answer of the King, in which his Majesty declared that, at the head of any other nation, he under such circumstances must abandon all hope; but that a French king, at the head of the French nation, never would despair. Though I knew it to be a very unpopular subject, and one on which my opinion differed from that of almost every other Member in the House, I censured the removal of the statues and pictures from the Museum. Whatever might be the justice of it, I said that on the impolicy of it I could have no doubt. It had, more than any other measure, stamped on

grandes garanties. Si l'on voulait le petit Napoléon—mais (dit-il, en s'interrompant, et comme rejetant loin de lui cette idée) cela est impossible,—mais enfin si l'on voulait le petit Napoléon, alors il faudrait de bien plus grandes garanties encore, peut-être une grande partie des territoires de la France.' Il revint encore à l'idée que Louis XVIII. était le roi qui convenait le mieux à la France, en même tems qu'à l'Europe. Il rejeta fort loin la prétension de la part des Français de proposer au roi aucune condition, et dit qu'il fallait s'en rapporter uniquement à lui, à ses bonnes intentions, et à ses principes éprouvés."¹

¹ The remainder of this paper will be found at the end of this volume.—ED.

the hearts of the French people a sentiment of hatred against the English. I also said that I was by no means satisfied of the justice of that proceeding. It was not true that those objects of the fine arts had been all carried away as the spoils of war ; many, and the most valuable of them, had become the property of France by the express stipulation of treaties ; and it was no answer to say that those treaties had been made necessary by unjust aggressions and unprincipled wars ; because there would be an end to all faith between nations if treaties were to be held not to be binding because the wars out of which they arose were unjust, especially as there could be no judge to decide upon the justice of the war but the nation itself. By whom, too, was it that this supposed act of justice had been done, and this moral lesson, as it was called, had been read ? By the very powers who had at different times abetted and supported France in these her unjust wars. I

*Removal of
the monu-
ments of art
from the gal-
lery of the
Louvre.*

mentioned that among other articles carried from Paris, under pretence of restoring them to their rightful owners, were the Corinthian horses which had been brought from Venice ; but how strange an act of justice was this, to

give them back their statues, but not to restore to them those far more valuable possessions, their territory and their republic, which were at the same time wrested from the Venetians ! But the reason of this was obvious : the city and the territory of Venice had been transferred to Austria by the treaty of Campo Formio, but the horses had remained the trophy of France ; and Austria, while she was thus hypocritically reading this moral lesson to nations, not only quietly retained the rich and unjust spoil she had got, but restored these splendid works of art, not to the Venice which had been despoiled of them, the ancient, independent, republican Venice, but to Austrian Venice,—to that country, which, in defiance of all the principles she pretended to be acting on, she still retained as part of her own dominions. That the peace, however, was not to be condemned merely on account of its being insecure, of its having sown the seeds of future war, and having been concluded under circumstances which had

been brought about by a violation of good faith, pledged both to England and to France, but on account of the most alarming example which it had set, and which threatened the liberties of this country and of all Europe. We are now united with the sovereigns of the most despotic governments of Europe, and with that King of France whom we have made, to establish and to maintain in that country a form of government and a royal family which we represent as best calculated to insure their happiness and our tranquillity. Who can assure us that the time will not come when the sovereigns of the same states, including that of France, will be united with an English king, to force by their confederated armies a new form of government on this country? The example which we have set of making war upon the nation, with its king for our ally, may be followed in after-times against ourselves: and an English king, in alliance with the enemies of the nation, may levy war upon his people. The same law of nations which we now invoke may be cited hereafter against ourselves; and it may be declared by Russia, Austria, Prussia, and France, that the turbulence of English liberty is incompatible with the peace and security of the continent of Europe. As we now hear it alleged that all the evils which in late times have desolated Europe are to be traced to the wild notions of liberty which, in the beginning of the revolution, were entertained in France; we, or our children after us, may be told by the sagacious statesmen of those times, with the pretension of a still deeper insight into political causes, that the French revolution itself, with all the calamities and horrors which have followed in its train, arose out of exaggerated and distorted notions of English liberty; and that nothing will give such stability to the governments of Europe as extirpating altogether that well-balanced constitution, those salutary checks on the exercise of royal authority, that security for personal liberty, that freedom and publicity of our debates, and those lofty privileges with which the English by their seducing example mislead the well-affected, and encourage and inflame the ill-disposed and the seditious in other countries. The liberty of the press

alone, it perhaps will be said, as it is exercised in England, is incompatible with the security of the thrones of Europe; that press which sets at nought the sacredness of foreign princes, and audaciously drags them from the sanctuary of their palaces, and from amidst the armed multitudes which surround and guard them, and arraigns them like the meanest culprit at the bar of public opinion. The noble Lord (Lord Castlereagh) has already given us some very significant hints on this subject. He has censured in strong terms the freedom with which the conduct of foreign monarchs has been canvassed in this House; and he has told us that our liberties are in no danger, but from the intemperate use we are making of them. His Lordship is preparing us for the time, when to extirpate the contagious spirit of licentiousness and sedition, which will be represented as issuing from this island and spreading its baneful influence over every part of the civilised world, will be deemed, by the jealous despots who will have dominion in Europe, an object sufficiently important to call forth the utmost efforts of their confederated arms. On what resources this country, in a season of such untried dangers, will have to rely, no man can now pronounce. On a British army, indeed; but not perhaps on an army which will have encountered dangers, and shed its blood, in defence of the rights of this or of any other people; but which may have long known no other military service than that of maintaining a foreign King upon his throne against the will of his people; and of enforcing the severe and cruel mandates by which alone such an authority can be long maintained.

Though my speech was not a good one, yet, as I consider this as the most important occasion that I ever spoke on, I have been desirous of preserving the memory of some of the things I said.¹

27th, Tu. The Ministers have proposed to keep on foot an army of 149,000 men, including those which are to be stationed in France. They persevere, too, in their intention of renewing the property-

¹ The numbers on the division were, for the amendment 77, against it 240; majority for Ministers 163.—ED.

tax, though they consent to diminish its amount. Numerous petitions to Parliament have come up, and are coming from all parts of the country, against this tax, and against the immense and unexampled military establishment which is to be maintained in this season of peace. I presented such a petition to-day from my constituents at Arundel. The objects petitioned against have been the subjects of debate on many of these petitions; and I took occasion to-day, in one of these debates, to express my opinion on them, and at the same time to contradict what Lord Castlereagh had a short time ago asserted in the House, that there was little foundation for the pretended persecution of the Protestants in the south of France; and that the officious interposition of people here on that subject had been deprecated by the Protestants. Vansittart, who spoke just before me, had objected to putting off the consideration of the tax, as had been desired, to a more distant day than that which had been appointed, because the tax was so soon to expire, namely, on the 5th of April next. I observed that, if there remained so little time for considering a matter of so much importance, and in which the public took so lively an interest, it should be recollected, that it was because the Ministers had thought proper to advise the Regent to prorogue the Parliament to a later period than that at which, for a great many years past, it had been usual for it to meet: that the question of renewing the property-tax appeared to me to be *Property-tax.* one of the greatest importance, not merely on account of its being in itself a most unequal, unjust, and oppressive tax, and of the odious means necessary to be resorted to to make it productive, and because the renewal of it was a violation of the solemn pledge given to the public when it was imposed, that it should be continued during the war and *no longer*; but much more on account of the other alarming measures with which this was inseparably connected—the maintaining a great standing army in time of peace, and the forcing upon the French people a government which was not of their choice: that the tax was necessary because so great a military force was to be kept on foot, and that force was requisite because we had

guaranteed the throne of France to the house of Bourbon : that it ought to be well understood that, if we were to be subjected to all the hardships and vexations of this tax, it was not for any national objects of our own, but in order that we might be able to preserve in France the present government—a government which had destroyed the liberty of the press, abolished all the guards and protections of personal security, grossly violated in the nomination of the present Chamber of Deputies the freedom of election, and acquiesced in a cruel *Persecution of Protestants in France.*

when I made this last assertion, I ought to explain what I meant by it ; and, from information which I had received, and of the authenticity of which I had no doubt, it appeared that, although the Government had not persecuted the Protestants themselves, they had taken no step whatever to bring to justice any of the numerous individuals who had been their most savage persecutors : that, although in the department of the Gard more than 200 persons had been murdered ; more than 2000 robbed by the populace exacting contributions from them by force ; and more than 250 houses burned or destroyed, and thirty women of good education and respectable connexions stripped naked in the streets and scourged with such cruelty that eight had died of the treatment they received,—not a single individual had been punished or even prosecuted.* The prefect and the mayor of Nismes, under whose administration these unpunished outrages were committed, had not been either recalled or removed. I reminded the House of the conduct which our Government had observed in 1780, when the Catholics were persecuted, but not in the same barbarous manner, by a misguided populace ; of the severe measures which had been resorted to, the many lives which the justice of the country had exacted, and the prosecution instituted

* I received intelligence of these facts from different quarters : the most important of my intelligence came from M. de Végobre of Geneva, who has near relations living at Nismes, and whose information is the more to be relied on, because, though Protestants, they are most zealously attached to Louis XVIII. and his family.

against the Lord Mayor, merely because he had been prevented by his timidity from doing his duty. As a proof of the criminal connivance of the prefect, I mentioned that, when General La Garde was wounded by one of the fanatical mob, though the man was well known (being one Boisset, a sergeant of the Royal Volunteers, and having been described as such in a proclamation in a neighbouring department by the prefect of Avignon), the prefect of Nismes affected not to know by whom the crime had been committed, and offered a reward to discover the author of it. I said that, though the Duke of Wellington had declared that the French Government had done everything they could to prevent these enormities, the fact was that they had done nothing but make professions. I also said that I believed that the interposition of persons in this country, so far from being prejudicial to the Protestants in France, had been of essential service to them; and that it was to that interposition that they owed the comparative tranquillity they now enjoyed. I called it only comparative tranquillity, and I mentioned vexations to which they were still exposed.

Lord Castlereagh unfortunately was not in the House, and no one controverted my statement.

March 13th, Wed. Lockhart moved for leave to bring in a Bill to suspend the operation of the Insolvent *Insolvent Debtors' Act.* Debtors' Act, and which is in substance to repeal it. The Act has been grossly abused; numerous frauds have been committed under it; and, from the ignorance of the magistrates who have executed the Act in the country, nothing has been more easy than to practise such frauds. A great many petitions for the repeal of the Act have been presented from London, Westminster, Bristol, and many other towns, and I have no doubt that the Bill will be repealed. I have endeavoured, however, to make the experience which the operation of this Bill has afforded useful, with a view to some future insolvent debtors' Act, if any such shall be attempted. With this object I suggested the propriety of appointing

* Vide *infra*, June 13th, 1816.

a committee to inquire into the effects which had been produced by the Act. This suggestion met the approbation of the House, and such a committee was appointed.¹

This day a message was brought down to the two Houses of Parliament, announcing the intended marriage of the Princess Charlotte of Wales with the Prince of Saxe Cobourg.

15th, Fri. The Bill to repeal the Shoplifting Act of *Shoplifting* King William was read a third time and *Act.* passed. It would have passed, as it had done in all its former stages, without a word being said upon it, but I took this occasion to mention that, while the Bill *A boy only ten years old capitally convicted under it.* had been in its progress through the House, a boy of the name of George Barrett, who was only ten years of age, had been convicted at the Old Bailey, under the Act, and was then lying in Newgate under sentence of death. I said that I should not have taken notice of the case of this miserable child if I had not observed that it was stated a little more than a year ago,* in the newspapers, that the Recorder of London had declared, from the Bench at the Old Bailey, that "it was the determination of the Prince Regent, in consequence of the number of boys who have been lately detected in committing felonies, to make an example of the next offender of this description who should be convicted, in order to give an effectual check to these numerous instances of youthful depravity." I said that I hoped that this was only a threat never meant to be carried into execution, and that the inhuman intention had never been really entertained of executing against children who were without education, or friends, or means of support, and who had so much to urge in extenuation of their guilt, a law of such excessive severity that there was not, for a

* September, 1814.

¹ By a majority of 11,—82 for the motion, and 71 against it.—Ed.

great many years, a single instance of its being enforced against men of mature age.*

The Attorney-General said he doubted whether the Recorder had ever used the expressions imputed to him; and certainly no intention of executing the law against children could possibly be entertained. Of the Bill he did not say a word, not even that he disapproved of it. He pronounced a panegyric on his excellent friend, as he called him, the Recorder. I said nothing, but I recollect, as must have done many others of those who heard him, the savage conduct of this Recorder in the late case of Eliza Fenning.¹

* A few months after this, a boy of the name of Blunder, who was only in his 16th year, and who had been convicted of a highway robbery, was ordered for execution. The execution was to have taken place on the 14th of June; but, by a very great exertion made by Bennet, a respite was procured for him the night before he was to have been executed. Lord Sidmouth told Bennet he understood that the boy was 17, but Bennet produced the register of his baptism, by which it appeared that he was not quite 16 when he was convicted; and Bennet, who saw him in Newgate, said that he had the appearance of being a much younger boy.

¹ The following is an extract from one of Sir S. Romilly's manuscripts, entitled "Case of Eliza Fenning."—ED.

"The case of Eliza Fenning is that of a servant-girl who, in the month of April, 1815, was tried at the Old Bailey, before the Recorder of London, for the crime of administering poison to her master and mistress and her master's father, which, by an act of Parliament, commonly called Lord Ellenborough's Act, has been made a capital felony. The only evidence to affect the prisoner was circumstantial. The poison was contained in dumplings made by her; but then she had eaten of them herself,—had been as ill as any of the persons whom she was supposed to have intended to poison; and her eating of them could not be ascribed to art, or to an attempt to conceal her crime, for she had made no effort whatever to remove the strongest evidence of guilt—if guilt there was. She had left the dish unwashed; and the proof that arsenic was mixed in it was furnished by its being found in the kitchen, on the following day, exactly in the state in which it had been brought from table. No motive, besides, could be discovered for an act so atrocious. Her mistress had, indeed, reproved her about three weeks before for some indiscretion of conduct, and had given her warning, but had afterwards consented to continue her in her service. This was the only provocation for murdering, not her mistress only,

18th, *Mon.* The resolution proposed by the Chancellor of the Exchequer, for continuing the property-tax ~~rejected~~ for two years longer, was rejected by a majority of 37; there being for the resolution 201, against it 238. It was generally supposed that the resolution would have been carried, and the most sanguine only hoped that the Ministers would have a majority of not more than five or six.

20th, *Wed.* A motion of disapprobation of the increase which has lately been made in the salary of Secretary to the Admiralty, in time of peace, from 3000*l.* to 4000*l.* a year, was rejected by a majority of 29; there being for the motion 130, and against it 159. In the course of the debate upon it, Brougham, who supported the motion, made a violent attack upon the Regent, whom he described as devoted, in the recesses of his palace, to the most vicious pleasures, and callous to the distresses and sufferings of others, in terms which would not have been too strong to have described the latter days of Tiberius. Several persons who would have voted for the motion were so disgusted that they went away without voting; and more, who wished for some tolerable pretext for not voting against Ministers, and who on this

but her master also, and the father of her master. A crime of such enormity, produced by so very slight a cause, has probably never occurred in the history of human depravity.

"The Recorder, however, appeared to have conceived a strong prejudice against the prisoner. In summing up the evidence, he made some very unjust and unfounded observations to her disadvantage, and she was convicted. The singularity of the trial attracted the notice of many persons to her case. They interested themselves in her favour. They applied to the Crown for mercy. The master of the girl was requested to sign a petition in her behalf; but, at the instance of the Recorder, he refused to sign it. An offer was made to prove that there was in the house, when the transaction took place, a person who had laboured a short time before under mental derangement, and in that state had declared his fears that he should at some time destroy himself and his family; but all this was unavailing: the sentence was executed, and the girl died apparently under a strong sense of the truths of religion, but solemnly protesting to the last moment that she was innocent."

occasion could not vote with them, availed themselves of this excuse, and went away too ; and it is generally believed that, but for this speech of Brougham's, the Ministers would have been again in a minority. If this had happened, many persons believe, or profess to believe, that the Ministers would have been turned out. Poor Brougham is loaded with the reproaches of his friends ; and many of them who are most impatient to get into office look upon him as the only cause that they are still destined to labour on in an unprofitable opposition. I have no doubt that, whatever had been the division, the Ministers would still have continued in office. But it is not the less true that Brougham's speech was very injudicious as well as very unjust ; for, with all the Prince's faults, and they are great enough, it is absurd to speak of him as if he were one of the most sensual and unfeeling tyrants that ever disgraced a throne. Brougham is a man of the most splendid talents and the most extensive acquirements, and he has used the ample means which he possesses most usefully for mankind. It would be difficult to overrate the services which he has rendered the cause of the slaves in the West Indies, or that of the friends to the extension of knowledge and education among the poor, or to praise too highly his endeavours to serve the oppressed inhabitants of Poland. How much is it to be lamented that his want of judgment and of prudence should prevent his great talents and such good intentions from being as great a blessing to mankind as they ought to be !

26th, Tu. Lord Stanhope, whom I saw to-day in the House of Lords, told me that he was against both my Bills. His arguments against the Freehold Estates Bill are not worth repeating ; but of the Shoplifting Bill he said, " it was a Bill to screen the greatest villains upon the face of the earth, —men who were much worse than murderers." I stared with astonishment, as well I might ; and my astonishment was not much diminished when he proceeded to explain his meaning. There are, he says, in London, a great number of young children who are thieves by trade.

Lord Stanhope's objection to the Shoplifting Bill.

They are educated, he says, to this trade by men ; such men are the greatest of villains. Shoplifting is sometimes, nay frequently, committed by these boys, and, when the boys are capitally convicted, the men who put them on committing these crimes are accessories before the fact, and might be capitally convicted too ; and by this means one might bring to the gallows these worse than murderers.

April 2nd, Tu. Brougham made a motion in the House ^{Remission by} of Commons of censure on the Lords of the ^{the Treasury} Treasury for remitting the penalties which ^{of excise po-} had been incurred by one Gibbs for frauds upon the Excise laws, in consideration of his zeal and active services in support of Government and their measures. It appeared to me, upon the minutes of the Treasury, the memorial of the party, and the testimonial in his favour, to have been a gross case of partiality, and consequently a corrupt exercise of the prerogative of mercy intrusted to the Treasury ; and I therefore spoke in support of the motion.¹

3rd, Wed. Bennet, at my instance, moved to-day for ^{Police of the} ^{metropolis.} the appointment of a committee to inquire into the present state of the metropolis. The Ministers were at first disposed to resist the appointing the committee ; but finally they agreed to it, and I am upon it. I expect very important information to be derived from this measure. Bennet's zeal and activity in promoting everything useful to the public are well suited to such an inquiry, and I rejoice that I have prevailed upon him to undertake it.

5th, Fri. I went this evening to Tanhurst, where Anne and my children are, and stayed till *Monday, April 8th.*

10th, Wed. I presented to the House of Commons four petitions from the prisoners confined for debt in the jails of Durham, Exeter, and Bristol, and the Fleet Prison, against Lockhart's Bill to repeal the Insolvent Debtors' Act.

¹ The motion was lost by a majority of 76 ; the numbers being in favour of it 48, against it 124.—*Ed.*

11th, *Th.* I went out of town to Tanhurst, and passed the Easter holidays with my dear Anne and all my children. I did not return to town till *Monday, April* 22nd.

24th, *Wed.* The House of Commons met, this being the day to which it had adjourned.

May 1st, Wed. Lord Castlereagh has brought into the House of Commons a Bill to establish regulations respecting aliens coming into, or resident in, the kingdom, which he is pleased to call a Peace Alien Bill ; as if it were now settled that the ancient policy of this country, which was to encourage foreigners to establish themselves amongst us, had been entirely departed from, and there was always to be a system of restraint maintained with respect to foreigners, even in time of peace. The Bill seems to be exactly the same as that which was passed two years ago. It gives the King power under his sign manual to send any foreigner out of the country ; and, for the purposes of the Act, it presumes every man within the realm to be an alien, and throws upon him the burden of proving that he is a natural subject. The danger to this country supposed to exist when the first Alien Bill was passed in 1793, it is universally admitted, has long ceased. No person now believes that we can have anything to fear from any attempt to bring about a revolution by means of foreigners propagating amongst us extravagant notions of liberty. But the new system which has been established in Europe, the alliance which England has entered into with the most despotic princes to maintain in France a particular form of government and the present reigning family, points out very obviously a use which Ministers may make of the extraordinary powers with which this Bill is to arm them, very different from that which was originally given to them. They may be used against those foreigners who shall endeavour to obtain an asylum here from the political persecutions to which they may be exposed in their own country ; and the mere circumstance of the Bill being now brought in by the Secretary for the Foreign Department, and not (as was always before done) by the Home Secretary, adds strength to that apprehension.

From some facts which have been stated to me, I believe that these powers have been already exercised at the instance of foreign Ministers. To have that fact ascertained, I moved to-day in the House for an account of the number of foreigners who have been sent out of the country under any of the Acts relating to aliens, upon the application of any foreign minister, distinguishing the numbers in each year. Lord Castlereagh opposed the motion, on the ground that it would be very improper to disclose any communication which might have taken place between foreign Ministers and the Secretary of State on the subject of any aliens; though, in truth, the motion did not require that the communications should be disclosed. Hiley Addington asserted that no foreigner had ever, as far as he could learn, been sent away upon the application of any foreign Minister. Mr. Baring, however, mentioned a very remarkable instance of the kind which came within his own knowledge. The motion was lost by a considerable majority.¹

10th, Fri. The Alien Bill was read a second time.² I opposed it, as did Brougham, Horner, and *Alien Bill.* Mackintosh. Tolerably accurate accounts of my speech appeared the next day in several of the newspapers, particularly in the *Morning Chronicle*.

20th, Mon. Upon the report of the Alien Bill, I again spoke against it; and I moved as an amendment that the Bill should continue in force only for one year. The amendment of course was rejected.³

22nd, Wed. Lord Holland moved in the House of *Shoplifting Bill.* Lords the second reading of my Bill to take away the punishment of death for the crime of shoplifting. There was little said upon it; the Bill was rejected, and there was no division. Lord Holland wrote me a note a little time back, to say that he thought little impression would just now be made on the public by any debate upon the Bill; but that a record of the opinion of

¹ A majority of 51; the numbers being, for the motion 31, against it 82.—ED.

² For the second reading 141, against it 47; majority 94.—ED.

³ For the amendment 44, against it 124.—ED.

those who approved the Bill on the Journals might give some effect to the measure at a future time ; and he therefore requested me to draw up a protest which he might sign. I accordingly wrote and sent him one. In the course of the little that was said upon the Bill, Lord Ellenborough again asserted that the repeal of the Act of Elizabeth which punished the crime of picking pockets with death, had *caused* a great increase of that offence. There is no ground for this assertion.

23rd, Th. The Committee for the relief of the French Protestants a little time ago applied to me to bring the condition of those unhappy persons under the notice of Parliament. Before I undertook to do this, I requested them to put into my hands the report which has been recently made to them by Mr. Perrot, whom they sent to make inquiries and procure information on the spot, and the other papers in their possession, that I might be master of the whole case. I accordingly carefully read these papers, and compared them with the information I had received from Gallois, and through the means of De Végobre. No doubt can be entertained that the Protestants in the department of the Gard and its immediate neighbourhood have been the objects of a most cruel persecution by the populace ; and that those who were in authority in the department have rather encouraged than repressed those acts of violence. Political animosity and revenge have been the pretext, but only the pretext, for these atrocities. The imputation on the Protestants that, while they had the ascendency, they committed similar crimes, is wholly without foundation ; and in proof that those who have been exposed to this cruel treatment have *not* really suffered for their political conduct, not one of them had distinguished himself by his zeal for Bonaparte or his enmity to the Bourbons. The Protestants indeed had enjoyed so much more security under Napoleon than under Louis, that it was natural to suppose that they must be in their hearts attached to Bonaparte ; and thence Protestant and Bonapartist are, by the Catholics of the Gard, considered as synonymous ; and therefore all Protestants are

*Persecution of
the Protestants
in the
south of
France.*

deemed enemies of the established government. If political opinions had been the cause of this persecution, we should not have seen, as we have, the churches attacked and demolished; the Ministers particularly the objects of the rage of the people; and the late mayor, who had always particularly distinguished himself by his zeal for the Bourbons, compelled to quit his office. For some months past, the acts of open violence against the Protestants have ceased; but they are harassed with groundless accusations, and at every moment threatened with a renewal of the oppression they have suffered. For all the murders, and robberies, and plunder, and house burnings, which have been committed, not a single individual has been brought to justice; and in the mean time the prisons are filled with Protestants, to whom are only imputed seditious expressions. Such of them as are brought to trial are convicted by the Prevotal Courts, upon the slightest and most suspicious evidence, and are punished with the utmost severity. I this day brought the subject before the House of Commons, by merely moving "that there should be laid before the House copies or extracts of all communications which have passed between His Majesty's Government and the Government of France relative to the Protestants in the southern departments of that kingdom." I introduced my motion by a detailed statement of what had passed at Nismes and in its neighbourhood. I took care to exaggerate nothing, but rather to understate the case.* I relied very much on the proclamations of the prefect, M. d'Arbaud Joucques, and of the Mayor, M. de Vallonques, which, upon the whole, were more calculated to excite than to restrain the vio-

* I have since seen a printed report concerning the "sufferings of the Protestants in the south of France, presented to a meeting of the inhabitants of Edinburgh, held on the 24th June, 1816, by the committee appointed at a former meeting," in which it is said of me, that I asserted in the House of Commons, that I was certain I should be within the number in stating that 200 women had been murdered, and nearly 2000 men; and for this a newspaper report of my speech is quoted. I certainly never made any such assertion; I stated the whole number murdered to be at least 200, and I believe that I greatly understated it.

lence of the people, notwithstanding the vague terms of censure they contained. Lord Castlereagh opposed the motion. He contended that, whatever might have passed in France with respect to the Protestants, it could not justify the interference of the British Government; and yet in the same speech he said that the Government had already actually interfered. He read, in the course of his speech, a written statement of facts collected by a person whom the Ministers had sent for the purpose to Nismes, which corroborated everything that I had asserted, and made the murders that had been committed much more numerous than I had stated them. His Lordship represented my motion as likely to be very mischievous to the Protestants, and my speech as having a tendency to revive religious animosities which had long been lulled to rest.

Nothing would have given me more pain than the reflection that anything I said could have such a tendency. But no person could have really thought that it could; and the man who made the observation is the same Lord Castlereagh who, in 1807, had availed himself of the cry of "No Popery," and, in defiance of all his former professions, had joined with those who had endeavoured to excite the populace to a religious persecution, as a favourable means of getting into office.

I did not divide the House, as I thought it might be injurious to the Protestants if there were but a small division upon such a question.

29th. The newspapers which are in the interest of Government, particularly the *Courier*, have made a violent attack upon me for the part I have taken respecting the French Protestants.

Attacks on me in the newspapers.
The following epigram, which has appeared in that paper, will give a just idea of the nature and liberality of their attack:—

"Pray, tell us why, without his fees,
He thus defends the refugees,
And lauds the outcasts of society?
Good man! he's moved by filial piety."

The Committee sent me a resolution of thanks as follows:—

“Williams's Library, May 28, 1816.

Thanks of the Committee for the relief of the French Protestants. “At a meeting of the Committee for inquiry, superintendence, and distribution of funds contributed for the relief of the persecuted French Protestants, resolved unanimously, that Sir Samuel Romilly be respectfully requested to accept the best thanks of this Committee for the distinguished ability and eloquence with which he vindicated the cause of the persecuted French Protestants in the House of Commons on Thursday the 23rd of May, 1816.

“THOMAS MORGAN, Secretary.”

I acknowledged the receipt of the copy of this resolution in the following letter, addressed to Mr. Morgan :—

“Sir,

“I have had the honour to receive the resolution of the Committee for inquiry, superintendence, and distribution of funds contributed for the relief of the persecuted French Protestants, giving me their thanks for the exertions I have made on behalf of those unhappy persons. It is highly gratifying to me to have met with the approbation of gentlemen for whom I have such high respect as I have for the Committee. In the endeavours which I have made to interest the British Parliament in the fate of the Protestants of France, I have only discharged what I consider as an important public duty; and I shall be ready at all future times, when it shall appear that I can do it with any prospect of success, to contribute to the best of my power my humble efforts towards procuring for that much-injured class of men security in the exercise of their religious worship, and redress for the cruel wrongs which have been done them.”

Protest upon the Shoplifting Bill. Lord Holland has entered a protest on the rejection of the Shoplifting Bill, which has been signed by the Dukes of Sussex and Gloucester, and by Lord Lansdowne, as well as himself. It is in these words :—

“*Dissentient.*—1st, Because the statute proposed to be

repealed appears to us unreasonably severe, inasmuch as it punishes with death the offence of stealing property to a very inconsiderable amount, without violence, or any other aggravation. 2dly, Because, to assign the same punishment for heinous crimes and slight offences tends to confound the notions of right and wrong, to diminish the horror atrocious guilt ought always to inspire, and to weaken the reverence in which it is desirable that the laws of the country should be held. 3dly, Because severe laws are, in our judgment, more likely to produce a deviation from the strict execution of justice than to deter individuals from the commission of crimes; and our apprehension that such may be the effect is confirmed, in this instance, by the reflection that the offence in question is become more frequent, and the punishment, probably on account of its rigour, is seldom or never inflicted. 4thly, Because the value of money has decreased since the reign of King William, and the statute is, consequently, become a law of much greater severity than the Legislature which passed it ever intended to enact.

“ **WILLIAM FREDERICK. AUGUSTUS FREDERICK.**

“ **VASSALL HOLLAND. LANSDOWNE.**”

The protest which I had written and sent to Lord Holland contained all the same principles, but was rather differently expressed. It was in these words:—

“ *Dissentient.*—1st, Because the statute proposed to be repealed, which appoints the punishment of death for the offence of stealing, without violence or any circumstance of aggravation, property of a very small amount, is a law of excessive severity, is ill suited to the character of the nation, and is repugnant to the spirit of our holy religion. 2dly, Because to ordain the same punishment for crimes of the greatest atrocity, and for offences which are low in the scale of moral guilt, tends to confound all notions of justice, and to diminish the horror which crimes of the deepest dye ought to inspire. 3dly, Because the excessive severity of laws prevents the execution of them, and, by affording in many instances complete impunity to

offenders, has a tendency to increase instead of preventing crimes. 4thly, Because, by the alteration which has taken place in the value of money since the statute of King William passed, it has become a law of much greater severity than ever was intended by the Legislature which passed it."

30th, *Th.* I supported a motion of William Smith's in *Abuses of the Crown process of extents in aid.* the House of Commons, for the appointment of a committee to inquire respecting abuses committed in suing out the Crown process of extents in aid. I suggested that an effectual remedy of the abuses which existed would be to provide that an extent in aid should never issue but on an affidavit that the debt due to the Crown would be endangered unless such an extent issued. The Attorney and Solicitor-General both opposed the motion, and it was lost, but only by a majority of nine.

31st, *Fri.* On the third reading of the Alien Bill, Lord *Alien Bill.* Milton proposed to add a clause to exempt from the operation of the Bill the alien wives of British subjects. I supported this clause, but as it was opposed by Lord Castlereagh, it was rejected by a great majority.¹ I again moved to limit the duration of the Act to one year, and this motion too was rejected.²

June 2d. Whitsunday.

I spent the Whitsun holidays at Cumberland Lodge *Whitsun holidays.* with Mr. Nash. Mr. West, the painter, passed two days there with us. Our time was spent very delightfully. Anne and four of my children were with me. The weather was very fine, and seemed the finer for the long dreary winter which we have but just got through. I enjoyed the fine knolls and groves of beeches which form the enchanting scenery of this part *Windsor Park.* of Windsor Park the more, on account of the close application which I have lately been

¹ The numbers were, for the clause 31, against it 91.—ED.

² By a majority of 50; the numbers being, in favour of the amendment 29, against it 79.—ED.

obliged to give to business.* West, though very reserved in large companies, talks a good deal and very *West the painter.* freely in the intimacy of private society. He speaks, indeed, so deliberately and in so low a tone of voice, that it is something of an effort to listen to him; but his conversation is very interesting, particularly when he talks (as he does very willingly) of the fine arts, and of the incidents of his own life. Galt's account of West's early life and studies has just been published, or at least printed, and having read it, I was able to lead him to speak of the most interesting periods of his life. Though he is now seventy-eight, the vigour of his mind and the strength of his memory are not at all impaired. His long life must have been a very happy one, for he told me that he would not have wished it to have been in any part of it different from what it has been. On the Tuesday we went together to Stoke, and visited the *Stoke.* monument which Mr. Penn has erected to Gray, and the churchyard in which he is buried, and which is the scene of his Elegy.

6th, *Th.* Returned to town.

11th, *Tu.* I moved in the House of Commons for copies or extracts of all despatches received by the Secretary of State from the Governor of the Mauritius, which in any manner relate to the case of Peter Damas Perrot. This man, who was a planter in the island, was *Case of Peter D. Perrot of the Mauritius.*

* On one of the days while we were at Cumberland Lodge, the Regent came to see the new cottage which Nash has been building for him, at immense expense, in Windsor Park. Nash attended him. In the course of conversation, the Prince asked him if he had any company with him at the Lodge. Nash answered that he had, and mentioned me, and I became for some time the subject of the Prince's observations. He spoke of me (according to Nash) in very friendly terms, but lamented my politics; and said it was my own fault that my juniors and my inferiors were passing me in the honours of the profession. To whom he alluded I cannot guess, unless it be to Leach, who is indeed my junior, and to Plumer, who is, however, senior to me by several years. But how little does the Prince know me, if he imagines that the promotions which have taken place, or any of those which may follow, have excited, or are likely to excite, in my mind any feeling of regret!

and family as a prisoner, and was sent to this country, without any charge whatever against him as a justification of his imprisonment, and without any allegation that, whatever his crime was, he could not have been tried in the island. As soon as he arrived here, he presented a memorial to Lord Bathurst, and only received for answer that Government had provided a passage for him if he chose to go back to the Mauritius and take his trial, and that he should be allowed 5s. a-day till the vessel sailed, but not for a day longer.

The motion was rejected by a great majority, but in a thin House.¹

I knew nothing of the man, but that, having heard of my name, he had applied to me and stated his case to me.

12th, *Wed.* I was examined as a witness before the committee of the House of Commons appointed to make inquiries respecting the education of the lower orders of the metropolis. I was examined as to the manner and expense of proceeding in Courts of Equity touching charitable trusts.

On a motion of Mr. Lyttelton on lotteries, I, as strongly *Lotteries.* as I could, endeavoured to impress on the House all the mischievous effects of that pernicious measure of finance.²

13th, *Th.* I attended the committee of the House of *Insolvent Debtors' Act.* Commons on the Insolvent Debtors' Act; and I persuade myself that I contributed very much to prevent the committee from reporting it as their opinion, that all further proceedings on the Act should be suspended till an amended Act can be brought in. Such a suspension would, in truth, have been a repeal of the Act; and, if it were repealed, it is quite certain that no other insolvent debtors' Act, however free from the defects of the present Act, or however perfect, would have any chance of being passed.

14th, *Fri.* I received the melancholy news of the death

¹ For the motion 19, against it 51.—ED.

² Mr. Lyttelton's motion, which was for a resolution of the House condemning the establishment of state lotteries, was lost by a majority

²⁶; 21 having voted for, and 47 against it.—ED.

of my most excellent friend George Wilson.¹ *Geo. Wilson's death.* He was found lifeless in his bed last Tuesday morning at his house at Edinburgh.

19th, *Wed.* Lord Grey, in the House of Lords, moved the second reading of my Bill to subject freehold estates to the payment of the simple contract debts of a deceased debtor. He supported the Bill by a very excellent speech, in which he answered all the objections which on former occasions had been insisted on by the Chancellor and Lord Ellenborough. Both those Lords were present, and remained silent. Lord Redesdale alone spoke against the Bill. Lord Grey did not divide the House, but entered a protest, on its being rejected,² which I drew up for him in these words:—

"Dissentient.—Because it is highly inexpedient and unjust that persons who have contracted debts and have the means of paying them should be allowed at their deaths to transmit to their heirs, or their devisees, the secure enjoyment of their property; while, by the non-performance of their engagements, their unsatisfied creditors may be reduced to bankruptcy and ruin; and this injustice is the more flagrant in the case of a trustee, who, having employed the money entrusted to him in the purchase of real estates, may transmit to his representatives the fruits of his violated trust, whilst the orphans or others, whom his conduct may have reduced to indigence, are left without remedy or resource."

On the same day a long debate took place in the House of Commons, on the projected Bill for the registry of slaves. *Registry of slaves.* on the late insurrection in Barbadoes, and on the present state of the West Indies. *Insurrection at Barbadoes.*

The Registry Bill, ordered last year to be printed, ex-

¹ See *suprà*, vol. i. p. 331.—ED.

² The freehold and copyhold estates of a deceased debtor have since been made subject to the payment of his simple contract debts, by stat. 3 and 4 Will. IV. c. 104.—ED.

cited great discontent and bitter complaints in the West Indies. Violent resolutions were come to at Jamaica, Barbadoes, and other of the islands, and angry pamphlets were published here, and circulated with very great industry, insisting that the rights of the West Indians were about to be violated; that the English Parliament, in which they were not represented, could not, according to the principles of the British Constitution, make laws to regulate their internal concerns; and that an interposition by the British Parliament between master and slave would be an encouragement to rebellion; and asserting that the pretended philanthropists (so they called Wilberforce and his friends) had now openly in their speeches avowed that emancipation was their object.

That the late insurrection at Barbadoes was at all connected with the Registry Bill has not been satisfactorily shown; but those who pretend that that Bill was the cause of it, themselves allege that the Bill was misunderstood by the slaves, who supposed that it was immediately to make them free. Such a misconception, if it exists, has, it is evident, originated with the West Indians. They have themselves, by their exaggerations, connected the notions of a registry and of emancipation; and they have most unintentionally, by foolishly foretelling, really caused this calamity. They pretend that our newspapers are read and explained to the negroes, and that therefore the mere discussion of these matters here produces the worst effects in the islands; and yet they publish their own exaggerations in their Colonial Gazettes; and in this very debate, in the course of a speech full of violence and asperity, made by Mr. Barham, he did not hesitate to declare that, if an insurrection of the slaves were to break out in Jamaica, it must be successful, and the island must be irrecoverably lost.

I had intended to have gone fully into the subject of the debate, but it being extremely late (one o'clock in the morning) before I had an opportunity of speaking, I said very little. I rose, indeed, principally to answer the apology which Canning had made for the law, passed in

1805, by the Barbadoes legislature, to punish the murder of a slave. When Lord Seaforth was Governor of that island, he was very much shocked to find that the murder of a slave was only punishable with a fine of about 11*l.* sterling. He endeavoured to procure an alteration of the law; and his zeal was the more excited, because several instances of very cruel murders of slaves occurred while he was resident in the island. He accordingly sent a message to the assembly, proposing that they should pass a law to punish the murderer of a slave with death. This message gave great offence to the assembly; the proposition was rejected; and one of the members, after expatiating on the danger of an European Governor's interference between the white inhabitants and their slaves, moved that a committee should be appointed to prepare an answer to the message; "an answer moderate and respectful, but calculated to repel insult, and evince that the House understood its interests and asserted its rights." This was in 1801.* Four years afterwards, however, the assembly was represented to have passed a law to punish with death the murder of a slave; and they had credit for this act of justice and humanity, till the laws passed in the West Indies for the protection of slaves came in the present Session to be printed, when it turns out that the terms of this act of assembly, passed in 1805, are, that if any man shall wantonly and without provocation murder a slave, he shall suffer death. Brougham had pointed out very forcibly that this law must be altogether nugatory. Canning attempted to defend it, but it is very manifest that the law was passed merely for the purpose of delusion. Any provocation, however slight, though only in words, or in a silent disobedience of the most frivolous order, would be a provocation, and consequently an excuse for the most cruel murder; and the taking away a human life in mere wantonness or sport has scarcely ever happened but by those who had derangement of mind to urge in their excuse. The debate ended by an address, moved by Mr.

Barbadoes' law against the murder of slaves.

* See the House of Commons' papers relative to the slave-trade, printed in June, 1804.

Palmer, an agent for some of the West India islands, calculated to remove the false impressions which are said to have been made on the minds of the negroes, being carried unanimously. Much was not said in the course of the debate on the question of the right of the British Parliament to legislate with respect to the treatment of the slaves in the islands. Something was said on it by Brougham, and something by myself, but very little by *West Indians' claim to the benefits of the British constitution.* think it expedient to enlarge upon it, I own that I feel a great deal of indignation when I hear the colonists endeavouring to revive the political controversy which preceded the American war. Can it be possible that the men who, on this occasion, maintain that they are not to be bound by any laws but such as have been made by themselves or their representatives, and who so loudly claim the benefits of the British constitution, can have reflected in what it is that the spirit and genius of that constitution really consist? Do they recollect that liberty and an equal protection by law of men of all ranks and descriptions are its most essential characteristics? Do they recollect that, where a British constitution really exists, there can be no slavery, either political or domestic—that the moment a slave has come within its genial influence, he loses his servile character and becomes as free as ourselves? In truth, the greatest calamity which, in the present state of ignorance and barbarism of the slaves, could befall both them and their masters, would be to proclaim in the West India islands that British constitution in all its purity which the colonists so rashly and inconsiderately invoke; since it must be attended with the sudden and unprepared emancipation of all who are now in bondage. The real purpose, however, for which these noble doctrines of the British constitution are appealed to by the West Indians, is to render domestic slavery more absolute and more intolerable, under the auspices of English liberty, than it has ever been even under the yoke of the most uncontrolled despotism. The arbitrary governments of France and Spain did not leave the slaves in their dominions to the legisla-

tive mercy of their masters. They took them under their own protection, and, by the humane provisions of the Code Noir* and of the Spanish Cedula, enforced upon their owners an obedience to the dictates of justice, and restrained the excesses of private tyranny. But the spirit of English liberty, it is pretended, forbids any such interposition, and compels us to abandon these most helpless of our fellow-creatures to whatever fate their masters may ordain.

While the debates on the Alien Bill were going on in the House of Lords, where Lord Ellenborough asserted, in his strong and intemperate way, that the King had, by his prerogative, in peace as well as in war, a right to order any foreigners to quit the kingdom (in support of which opinion he most absurdly cited the authority of Vattel), I happened to recollect the Scotch Act of King William to prevent wrongous imprisonment, passed in 1701. That Act, the great Habeas Corpus Act of Scotland (as it has been often called), which was meant to secure to the inhabitants of that part of the island the same personal liberty as they enjoy in England, declares, that no person shall be transported forth of the kingdom except with his own consent given before a judge, or by legal sentence. If it should be contended that the words "no person" mean no natural-born subject, the answer is, that the contrary has been expressly decided by the Court of Session, in the case of Jos. Knight, a native of Africa, bought in Jamaica as a slave, and brought by his master into Scotland. The Court inhibited the master from taking him out of the kingdom, holding (*inter alia*) that he was entitled to the benefit of this Act.† I mentioned this to Lord Holland, and hoped he would have noticed it in

*Alien Bill a
virtual repeal
of an impor-
tant provision
in the Scotch
Act to prevent
wrongous im-
prisonment.*

* In the Code Noir, the King of France calls the slaves *his*, as denoting that they were entitled to his protection. "Nos esclaves" is the expression. In the British dominions, though the slaves of their masters, they are the subjects of the King.

† This case occurred in January, 1778, and is mentioned in a note in Howell's *State Trials*, vol. xx. p. 2.

the Lords on the last debate on the Alien Bill; but he omitted to do it. I should afterwards have mentioned it in the House of Commons, on agreeing to the amendments made in the Bill by the Lords, but I could not attend at the time. It is curious that the repeal of so important a clause in the Act of wrongous imprisonment should have been made by this and by all the former alien Acts, and never should have been noticed in any of the debates.

25th, Tu. The Recorder of London having been lately

*The Recorder
and I exa-
mined as wit-
nesses before
the Police
Committee.*

examined as a witness before the Committee of the House of Commons appointed to inquire into the state of the police of the metropolis, and having asserted, in his evidence, not merely as matter of opinion, but as a certain fact, that a cause of the increase of felonies in the metropolis was the taking away the capital punishment for picking pockets; I availed myself of this opportunity of exposing the fallacy of that statement, which has been so often made by the Lord Chancellor and Lord Ellenborough; and I accordingly attended the committee to-day as a witness, and stated the facts which appear to me entirely to disprove that assertion. My statement will of course be printed with the rest of the evidence which the committee intend to report to the House.

Yesterday was read a third time in the House of Com-

*Facility with
which capital
punishments
are enacted.*

mons and passed, a Bill to make the destroying or beginning to destroy, by persons riotously assembled, any of the machinery employed in collieries, a capital felony. The Bill was brought into the House by Mr. Lambton, a considerable owner of collieries; but neither on moving for leave to bring in the Bill, nor in any stage of it, was the attention of the House in any manner called to this penal enactment. The offence is already by a former statute a felony, punishable with transportation. That this severity has not been sufficiently efficacious; that the crime is in any degree increasing; that any remarkable instance of it has of late occurred, was not stated by any one. But, as

if the life of man was of so little account with us, that any one might at his pleasure add to the long list of capital crimes which disgrace our Statute Books, the Bill passed through all its stages as matter of course, without a single statement or inquiry, or remark being made by any one. As soon as I knew of the Bill I watched it through its last stages; but, after consuming many hours in the House to my great inconvenience in a fruitless attendance, I was never able to be present when the Bill came on. To-day, on occasion of the third reading of a Bill requiring the clerks of assize and of the peace in Ireland to make returns to Government of the criminals tried at the different assizes and quarter sessions, I spoke of this penal Bill which had passed yesterday; animadverted upon the facility with which such Bills were passed; and expressed a hope that in the Lords, in which such great difficulties were made whenever it was proposed to abolish any one capital offence, some more attention and consideration would be given to this Bill for adding to such offences, than had been done in the Commons. I made these observations in the confident expectation that they would appear in the newspapers of the next day, and be read by some of the peers; but, to my mortification, I did not observe that any notice was taken in any of the papers of what I had said.

27th, *Th.* I mentioned this Bill to Lord Lauderdale, Lord Holland, and Lord Shaftesbury, and they all said they would attend to it. The real reason, I believe, for making this new capital felony, is, that the principal object of the Bill is to give the owners of collieries, whose property is injured by any such outrages as the act contemplates, an action against the hundred; and there is not, that I know of, any instance of such an action being given, but in the case of a capital felony. It is not from any desire to hang the poor wretches who may be convicted on this law that it is passed, but because, without exposing them to be hanged, the proprietors of collieries do not know how to decide that they may have a remedy against the hundred.

July 2nd, Tu. Parliament was prorogued.

13th, Sat. On the invitation of the family of Richard *Sheridan's* Brinsley Sheridan I this day attended his funeral.* I understood that it was to be very private, and that he was to be followed to the grave only by a few of his friends, and of those who had been particularly connected with him in politics. When I arrived at Peter Moore's house in George-street, to which the body had been removed, as being near to Westminster Abbey, where it was to be buried, I was astonished at the number and the description of persons who were assembled there;† the Duke of York, Lord Sidmouth, Lord Mulgrave, Lord Anglesea, Lord Lynedoch, Wellesley Pole, and many others, whose politics have been generally opposite to Sheridan's, and who could grace the funeral with their presence only to pay a tribute to his extraordinary talents. How strange a contrast! For some weeks before his death he was nearly destitute of the means of subsistence. Executions for debt were in his house; and he passed his last days in the custody of sheriffs' officers, who abstained from conveying him to prison merely because they were assured that to remove him would cause his immediate death; and now, when dead, a crowd of persons the first in rank, and station, and opulence, were eager to attend him to his grave. I believe that many, and I am sure that some, of the mourners were self-invited. Such certainly were three of the Prince's friends—Lord Yarmouth, Bloomfield, and Leach. They sent a letter from Carlton House the day before the funeral, expressing a desire to attend, and their offer was not refused. The Prince, about ten days before Sheridan's death, when he was in great distress, and after some of the newspapers had observed upon the strange inattention he met with, had sent him a present of 200*l.*; but Mrs. Sheridan had the spirit to refuse it, and when she communicated to her husband what she had done, he approved her conduct. The immediate cause of his death was reported to be an

* He died on Sunday, the 7th of July.

† Among his old friends who attended were the Duke of Bedford, Lord George Cavendish, Lord Robert Spencer, Lords Holland, Erskine, and Lauderdale.

abscess; but the truth is, that his constitution was nearly worn out, and that his death was rapidly accelerated by grief, disappointment, and a deep sense of the neglect he experienced.

30th, *Tu.* My dear Anne, with all our children, except William, who is in Shropshire, and John, who is at school, set off this day for Cheltenham, and I remain in town till the Chancellor's sittings shall terminate.

Aug. 30th, Fri. I set out (after coming out of Court, for the Chancellor's sittings have lasted till this morning) for Cheltenham.

31st. Through Oxford to Cheltenham.

Sept. 1, 2, and 3. Remained at Cheltenham. Met there M. de Bourke the Danish Minister, Mr. Pattison the American, Matthias, &c.

4th. Set out with Anne and the children, passed through Gloucester, Newnham, by the banks of the Severn to Chepstow, and from thence through Cardiff to Cowbridge.

5th, *Th.* Looked over my estate at Barry and Porthkerry, and in the evening returned from Cowbridge to Cardiff, where we slept.

6th, *Fri.* By the banks of the Taff, a beautiful drive to Merthyr Tydvil, from thence to Brecon, Hay, and Cabalva, Mr. Davies's; remained at Cabalva, where William met us, till

21st, *Sat.* When we went to J. Whittaker's, at the Grove, not far from Presteign. Stayed there till we removed to Knill, on Wednesday, *Sept. 25.*

Oct. 8th, *Tu.* Set out for Tanhurst, passed through Hereford and Ledbury, slept at Upton.

9th, *Wed.* Through Oxford, slept at Henley.

10th, *Th.* Arrived at Tanhurst.

The weather has been uncommonly wet throughout the summer, and during the whole of this last *wetness of the season.* journey through Herefordshire, Worcester-shire, Oxfordshire, Berkshire, and Surrey, we saw the greatest part of the harvest on the ground, drenched with the heavy rains which have lately fallen, in an extremely bad state, and great part of it likely to be lost. In the

neighbourhood of the Thames, and in many other places, the country was flooded to a very great extent. In other places the crops were still standing; and often in the adjoining fields the new wheat was rising and very *Prospect of scarcity.* high on the ground. In Radnorshire and the part of Herefordshire we have been staying in, the prospect is extremely alarming. There must be a very great scarcity of wheat and barley. The potatoes, too, which form so large a part of the food of the poor, have greatly failed; and, to add to their distress, the long continuance of rain has prevented them from getting peat from the moors, and laying in their usual stock of winter fuel.

Oct. We left Tanhurst and returned to town.

Nov. 9th, Sat. I dined at Guildhall at the Lord Mayor's *The Lord Mayor's dinner.* Though always invited, I never dined there before. Wood, the Lord Mayor of the last year, with whom I am personally acquainted, was re-elected for the present year. His conduct during his mayoralty has been highly meritorious; particularly in detecting an atrocious conspiracy of thief-takers to get innocent men convicted of coining, that they might share the rewards given on such occasions. It is usual for the Ministers to dine with the Lord Mayor; but as the present Ministers do not approve of Mr. Wood's politics, they all absented themselves. They had done the same last year.

Dec. 2d, Mon. A meeting was held to-day of a great *Meeting in Spa Fields.* multitude of persons in the Spa Fields near Islington, pursuant to an adjournment of a former meeting which had been held in the same place about a fortnight ago. The ostensible object of that former meeting was, to petition the Regent on the subject of the public distresses; and that of the present, to learn in what manner the petition had been received, and what further steps were to be taken. Hunt, formerly a candidate at Bristol, took the lead upon both these occasions, and made violent speeches against all public men, except Sir Francis Burdett, Cobbett, and Lord Cochrane. It was determined at this meeting, that a petition should be

presented to the House of Commons, and that Lord Cochrane, and I believe Sir Francis Burdett, should present it. These proceedings would be hardly worth mentioning, had it not been that a party, headed by one Watson, issued forth from the meeting, and, proceeding into the city, broke into the gunsmiths' shops, armed themselves, and committed many violent outrages, till they were dispersed, and some of the ringleaders secured, by the courage and good conduct of the Lord Mayor.

26th. I left town for Tanhurst, and remained there with my dear Anne and all my children except William, who is still with Mr. Otter, till the 10th of *January*. Mine has been a happy life, but I know not any fortnight in it which I have passed more happily than this.

1817.

Jan. 10th. On my return this day from Tanhurst, I found a letter which had come by some private hand. It was from General Savary, and was dated at Smyrna, 4th of July, 1816. It begins in these words:—

Letter received from General Savary, Duke de Rovigo.

“ Ce n'est que depuis le recouvrement de ma liberté que je puis vous remercier de la réponse que vous avez eu la bonté de faire à la lettre que j'ai eu l'honneur de vous écrire il y a environ un an, lorsque je me suis cru en danger à bord du Bellerophon dans la rade de Plymouth. Tout ce qui m'est arrivé depuis cette époque m'a convaincu que je ne dois qu'à votre intérêt généreux de n'avoir pas été victime d'une translation en France, qui étoit alors vivement demandée par le gouvernement de ce pays.* Pendant ma longue détention je vous ai voué une bien sincère reconnaissance.” He then proceeds to the objects of his letter, which are to inquire how he should proceed to obtain redress against persons who,

* I do not believe that it was ever intended by the Ministers to deliver him up to the French Government.

he says, have libelled him in publications in England, imputing to him the murder of Captain Wright, and other atrocities to which he was an entire stranger; and to communicate to me a narrative (which was enclosed) of the transactions which preceded Bonaparte's going on board the Bellerophon, in order that, if I thought proper, I might publish it or make what use of it I might think fit. "Vous vous rappellerez," he says, "que j'étois du nombre des personnes qui avoient suivi la mauvaise fortune de l'Empereur, et que, par suite d'une disposition ministérielle, j'ai été conduit à Malte, et enfermé au secret le plus rigoureux pendant sept mois, ainsi que sept autres officiers qui étoient au même cas que moi. C'est en vain que l'on a cherché des prétextes pour justifier une mesure aussi étrange. Le véritable motif de cette sévérité étoit la crainte que je ne parlasse, ainsi que mes compagnons, de toutes les circonstances qui ont précédé et suivi l'arrivée de l'Empereur à bord du vaisseau de Bellerophon. J'ignore les raisons que l'on a eu de craindre des divulgations; mais quelques soient les considérations qui aient déterminé à agir comme on l'a fait, je ne m'en crois pas moins obligé à tenir la parole que j'ai

Bonaparte's request to Savary. donnée à l'Empereur en recevant son dernier adieu; il m'a fait promettre, Monsieur, de vous adresser tout ce qui étoit relatif à cette partie de son histoire, et je m'y suis engagé. Il connoissoit votre nom et votre caractère; cela étoit suffisant pour entraîner sa confiance; et c'est avec le même respect que je recevois ses ordres dans sa plus haute prospérité, que j'exécute les dernières volontés qu'il m'a manifestées dans son infortune. Je n'ai aucun but agitateur en vous transmettant cette narration, mais, si l'usage qu'il vous conviendra d'en faire en rendoit la publication nécessaire avec l'attache de mon nom, je suis homme d'honneur, Monsieur le Chevalier, et, quelque danger qu'il pût en résulter pour moi, je vous prie d'en agir comme il vous plaira sans avoir égard à moi; dût-il m'en coûter la vie, je mettrai de la gloire à convenir que c'est moi qui vous l'ai adressée." The narrative enclosed, and thus referred to, consisted of seventeen quarto pages,

closely written, and in a small hand.* The most important part of it is that which relates the interview which took place between himself (Savary) and Captain Maitland, before Bonaparte ventured on board the *Bellerophon*. Bonaparte, according to this account, having arrived at Rochefort, and not having received the passport which Fouché had undertaken to apply to the Duke of Wellington for, to enable him to go to America, sent Savary and Las Cases on board the *Bellerophon*, to inquire whether Captain Maitland had received it. Captain Maitland had heard nothing of any passport, and was even ignorant of Bonaparte's abdication. In the course of the conversation which took place, Savary and Las Cases asked Captain Maitland how he would act if Bonaparte sailed for Rochefort in a French vessel, and how if he were to take his passage in a neutral ship? After answering that, in the first case, he should capture the vessel and make Bonaparte a prisoner, and that, in the latter, he should detain him till he had received directions from his admiral how he was to act, he added, according to the narrative: "L'Empereur fait fort bien de demander des passeports Anglois pour éviter des désagréemens qui seroient chaque jour renouvelés à la mer, mais je ne crois pas que notre gouvernement le laisse aller en Amerique. Alors, Messieurs Savary et Las Cases lui ayant reparti, 'Où donc lui proposeroit-on d'aller?' Monsr. de Maitland répondit, Je ne le devine pas, mais je suis presque certain de ce que je vous dis. Mais quelle répugnance auroit-il à venir en Angleterre? De cette manière il trancheroit toutes les difficultés. M. de Las Cases repartit, qu'il n'avoit pas mission de traiter cette question, mais que lui personnellement, il croyoit que l'Empereur ne s'étoit pas arrêté à cette pensée, parcequ'il craignait peut-être les effets d'un ressentiment qui seroit la conséquence naturelle d'une longue mésintelligence entre lui et le gouvernement Anglois; que d'un autre côté, il aimoit les climats doux, et surtout les charmes de

* It is entitled "*Note sur les Evenemens qui ont suivi le Départ de l'Empereur de l'Ile d'Elbe jusqu'à son transport à Ste. Hélène.*"

la conversation ; et qu'en Amérique il pouvoit trouver l'une et l'autre, sans craindre aucun mauvais traitement de qui que ce soit. Monsr. de Maitland répliqua, que c'étoit une erreur de croire que le climat d'Angleterre fut mauvais et humide ; qu'il y avoit des comtés où le climat étoit aussi doux qu'en France — dans celui de Kent par exemple ; et que les agrémens de la vie sociale y étoient incomparablement supérieurs à tout ce que l'Empereur pouvoit rencontrer en Amérique ; que quant aux ressentimens qu'il pourroit craindre de la part des Anglois, c'étoit le moyen de les éteindre tous que de venir vivre au milieu d'eux sous la protection de leur lois ; que là il étoit à l'abri de tout, et rendoit les efforts de ses ennemis impuissans ; que, quand même les Ministres voudroient le tracasser, ce qu'il ne croyoit pas, ils ne le pourroient pas, parceque (ajouta-t-il), chez nous le gouvernement n'est pas arbitraire, il est soumis aux lois. Je crois bien, continua-t-il, que le gouvernement prendra, vis-à-vis de lui, des mesures également propres à assurer sa tranquillité et celle du pays où il résidera, telles que celles qui furent prises à l'égard de son frère Lucien (par exemple) ; mais je ne concevrois pas que cela pût être étendu au-delà, parceque, je vous le répète, les Ministres n'en ont pas le droit, et la nation ne le souffriroit pas. Monsr. de Las Cases observa de nouveau à Monsr. de Maitland, qu'il n'avoit pas mission de traiter ces objets, mais qu'il avoit bien retenu sa conversation, qu'il la rapporteroit à l'Empereur, et que, s'il se décidoit à aller en Angleterre, il lui en feroit part ; et il lui fit cette question, 'Dans le cas où l'Empereur adopteroit cette idée d'aller en Angleterre, et je contribuerai de tous mes moyens à l'y décider, pourra-t-il compter sur un transport à bord de votre vaisseau, tant pour lui que pour les personnes qui l'accompagnent ?' Monsr. de Maitland a répondu qu'il n'avoit pas d'ordre pour cela, mais qu'il alloit en faire le sujet d'une question à son Amiral, et que, si l'Empereur lui demandoit passage sur son bord avant qu'il en eût une réponse, il commenceroit d'abord par le recevoir.' This conversation was immediately reported to Bonaparte, and two days afterwards, on the 14th * * *,

he sent the General Lallemand and Las Cases again to Captain Maitland, on board the Bellerophon, "comme parlementaires. Il y eut entre ces Messieurs et le Capitaine Maitland des explications sur la conversation qu'il avoit eu l'avant veille avec Messieurs Savary et Las Cases. Il avoit depuis lors été rejoint par une autre corvette appelée Le Henry, commandée par un Capitaine qui se nommoit Sertorius. Le Général Lallemand revint le même jour rapporter à l'Empereur le détail de tout ce qui s'étoit passé à bord du Bellerophon. Monsr. de Las Cases étoit resté à bord de ce vaisseau, d'où il écrivit à l'Empereur que le Capitaine Maitland l'avoit chargé de le prévenir que, s'il se décidoit à venir en Angleterre, il étoit autorisé à le recevoir, et qu'il mettoit son vaisseau à sa disposition." It was not till after all this had taken place, that, according to this narrative, Bonaparte went on board the Bellerophon. Besides this narrative, there was enclosed in the letter to me one addressed to the Lord Chancellor, requesting him to grant Savary a passport to come into this country. This letter I delivered to the Chancellor: he said that the granting passports was wholly in Lord Sidmouth's department; but that he would speak to his Lordship on the subject. About three weeks afterwards, he told me that he had accordingly applied to Lord Sidmouth, and that, without assigning any reason, he declined to grant it.

I had no doubt that the publication of Savary's narrative would be of no service either to Bonaparte or to himself, and that it would gain no credit in England; but yet, as it merely contained a statement of alleged facts, and as the parties concerned had not the means themselves of making what they state to be their case known, I had some scruple whether it was not almost a duty in me to publish it. I consulted Lord Holland on the subject, and showed the memorial to him, and to him only. Lord Holland strongly dissuaded the publication. In consequence of this I wrote to Savary¹ in these words:—

¹ Vide *suprà*, p. 379.—ED.

“Sir,

*Answer to General Sa-
vary.* “Your letter, dated the 4th of July last, was not delivered to me till the 10th of this month. As soon as I received it, I waited on the Lord Chancellor.” I then stated the result of my interview, and gave him my opinion as to prosecuting the persons he complained of. “The paper you have been pleased to transmit to me I have read with very great attention and interest. I understand it to have been submitted entirely to my judgment, as to the use which should be made of it ; and, so understanding, my opinion is very decided that it would not be, by any means, expedient at the present moment to publish it. Whenever published, it must be with your name ; for the whole importance of the paper depends upon its being known by whom the statements in it are made. I shall preserve the paper till I hear from you how you wish it to be disposed of.”

28th, Parliament met. It was opened by the Regent in person. On his Royal Highness's return from the House of Lords, he was very grossly insulted by the populace. Stones were thrown at his carriage, and one of the glasses broken. Lord James Murray, who was in the carriage, was examined in each House of Parliament ; and, from his deposition, it should seem that bullets were fired at the carriage, as he imagined, from an air-gun,* no report having been heard. The Houses immediately voted addresses to the Prince Regent on the occasion ; and the further consideration of the Speech was, in each House, adjourned to another day.

29th. Some petitions for a reform of Parliament, presented by Lord Cochrane, were objected to by several Members, on account of supposed disrespectful language in which they were couched. I spoke for the reception of them, thinking

* It seems since to have been fully ascertained that there was no ground for this supposition.

that, under the present circumstances, it was very unwise to seek out pretences for rejecting the people's petitions : they were, however, rejected.

An amendment was moved to the address by Ponsonby, and a division took place.

31st. Petitions for reform presented by Sir Francis Burdett, and again objected to. I urged the receiving them.

Feb. 4. Sealed up papers were, by order of the Regent, laid before each House of Parliament, and referred to a Select Committee. This is preparatory to some restraint intended to be imposed *Select committee appointed.* on the liberty of the people, on the ground of some dangerous conspiracies said to be in existence. Among the Committee of the House of Commons were Mr. Ponsonby, Sir Arthur Piggott, and Lord Milton.

8th or 9th. The Privy Council granted warrants for seizing several persons charged with treasonable practices, and, after examination, *Persons committed for high treason.* they were committed.

10th, *Mon.* Another meeting was held by adjournment in Spa Fields. A great crowd assembled, and Hunt appeared amongst them and harangued them. No outrage or riot, however, took place. The persons seized and committed for treason were obscure and indigent men, but who had acted a conspicuous part in the former meetings, and had signed the notices for convoking them.

12th, *Wed.* I moved in the House of Commons for leave to bring in a Bill to repeal an Act passed in the last Session, which added greatly to the severity *Game laws.* of the Game Laws. It had passed quite at the close of the Session ; had stood in its different stages as an order of the day amongst forty or fifty other orders ; had passed without a single word being said upon it ; and received the Royal Assent the day before the Parliament was prorogued. The Act* professed in the preamble to be made against persons who went armed by night, and com-

* This Act is 56 Geo. III. c. 130.

mitted acts of violence and murders ; but, in its enacting part, it punished, with transportation for seven years, any person who should be found by night in any open ground, having in his possession any net or engine for the purpose of taking or destroying any hare, rabbit, or other game ; and, to add to the cruel absurdity of this law, it fixed the limits of night for the purposes of the Act to be between the hours of eight o'clock at night and seven in the morning, from the 1st of October to the 1st of March (that is, three quarters of an hour after sunrise, and one hour and a half after broad daylight) ; and between the hours of ten at night and four in the morning, from the 1st of March to the 1st of October. So that, according to this law, even a qualified person (for there is no distinction made) who should go out before seven in the morning, in the beginning of October, to shoot game, is liable to be transported as a felon. Leave was given to bring in the Bill.

19th. The Select Committee to whom the sealed *Report of Select Committee.* papers had been referred made their unanimous report, stating that a conspiracy had been formed to excite a general insurrection, and that dangerous secret societies existed ; and they concluded by saying, that they submitted to the most serious attention of the House the dangers which existed, and which the utmost vigilance of Government under the existing laws had been found inadequate to prevent. This last sentence was very lightly inserted in the report. Sir Arthur Piggott (a member of the committee) told me that he did not know that it was there ; and the truth was that no evidence was laid before the Committee of any vigilance exerted by Government to execute the existing laws.

21st. A Bill was brought into the House of Lords to empower his Majesty to secure and detain such persons as his Majesty shall suspect are conspiring against his person and government ; a Bill which is generally called "A Bill for the Suspension of the Habeas Corpus Act."

In the House of Commons I presented a petition, signed by a great number of the inhabitants of the Tower Hamlets division, complaining of misconduct in the magistrates for that division, in granting and refusing licences to public houses. *Abuses by
Middlesex
magistrates in
licensing public
houses.*

I availed myself of this opportunity to animadvert on some of the matters which appear in the report of the Police Committee of last Session, particularly the great number of low public houses, the notorious receptacles of thieves; the great increase of crimes, particularly by children; and the mischiefs arising from rewards given upon convictions.

24th. The report of the Secret Committee was taken into consideration in the House of Commons, and Lord Castlereagh stated all the measures *Report of the
Secret Com-
mittee.* which the Ministers intended to propose; which were, to suspend the Habeas Corpus Act; to revive the Act of 1795 for preventing seditious meetings; to revive the Act lately expired which punished with death the seduction from their allegiance of soldiers and sailors; and to pass an Act for making the same attempts on the life or person of the Regent high treason, as are now treason when made on the King. I spoke on this, and, in the course of my speech, observed that, before we made new laws, it was necessary that we should know what had been done to enforce those which already exist. The Attorney-General admitted that, till within a few days, he had not instituted a single prosecution.

27th. On the second reading, in the House of Commons, of the Bill for suspending the Habeas Corpus *Bill for sus-
pending the
Habeas Cor-
pus.* Act, I opposed it to the best of my ability, in a speech of some length. I did not deny the existence of considerable danger; but I endeavoured to show, as I most sincerely think, that the proposed remedy is not at all adapted to the evil.

28th, Fri. The Bill was read a third time in the House of Commons, and passed. Before the business came on, a petition against the Bill from the Livery of London was presented to the House. I took this occasion to call the attention of the House to the situation in which the Bill would place the *Habeas Cor-
pus Suspen-
sion Bill, as it
affects Scot-
land.*

people of Scotland, who could not, from the remoteness of their situation, prefer their complaints and express their alarms to the House, as the Livery of London could; although they would be placed in a much worse condition than the people of England. With respect to the English, the benefits of the Habeas Corpus Act were taken away only from persons committed for treason or suspicion of treason, under a warrant signed by a Secretary of State or six Privy Counsellors; but with respect to the inhabitants of Scotland, the benefits of the act against wrongous imprisonment were taken away from persons committed for treason or misprision of treason by any inferior magistrate, any Sheriff-substitute, or Justice of the Peace; and, when once committed, there was, according to the provisions of the Bill, no power of bringing them to trial but under an order signed by six Privy Counsellors, which there was no probability that obscure manufacturers or artisans would ever have interest enough to procure. This statement made a considerable impression on the House; and the Lord Advocate (M'Conochie), who at first declined giving any explanation on the subject, being afterwards, in the debate which took place on the third reading of the Bill, called upon to state whether my representation of the effect of the Bill was correct, very confidently asserted that it was incorrect; and that, although the clause respecting Scotland expressly declared, "that no judge, justice of peace, or other officer of the law, should liberate, try, or admit to bail, any person or persons that was or were or should be in prison for such causes as aforesaid, without order signed by six of the Privy Council," this must be construed with reference to the former clause relative to England, and therefore must be understood, "any person committed by warrant signed by a Secretary of State or six Privy Counsellors:" and he was imprudent enough to say, that he was the more confident that this must be the construction of the law, because a similar clause was contained in former acts of the same kind, particularly those of 1794 and 1798; and he thought it quite impossible that the persons who framed those acts could intend to place the people of Scotland in so unhappy

a condition as they would be in if my construction of the Act were to prevail. I observed upon this, that, as such was the opinion of the Lord Advocate, there could be no objection on the part of Ministers to inserting a very few words in the Bill to make that which was stated to be the intention of the authors clear; and I therefore moved to insert after the words "that the act for preventing wrongous imprisonment should be suspended," the words "with respect to persons so committed as aforesaid;" and after the words before cited, "any persons that were or should be in prison in Scotland," the words "under a warrant or warrants so signed as aforesaid." The Lord Advocate and the Ministers acceded to this, and these amendments were adopted.

*Amendments
made in it in
the House of
Commons.*

The minority upon the division on the third reading was 103; on the second reading it had been 98. The majority were considerably more than two to one on both occasions.¹

March 2d, Sun. I hear that the Chancellor is extremely angry at the amendments made to the *Lord Chancellor.* Bill in the Commons, and says that the Act will be useless for Scotland: that the Lord Advocate has not known what he was about; and that it will be impossible for the Lords to agree to the amendments.

3d, Mon. The amendments were taken into consideration by the Lords, and underwent some discussion. The Lord Chancellor said that they had made the Bill much worse than it was before, but yet he should propose to agree to them; and accordingly they were agreed to. The truth is, that the Chancellor and his colleagues are unwilling to have any further debates take place on the subject.

*Amendments
agreed to by
the Lords.*

On the same day a writ was moved for in the House of Commons to elect a member for St. Mawes, in the room of Horner, who died lately at Pisa. *Panegyrics on Horner.* He had gone thither last autumn, in the vain hope of

¹ On the second reading, ayes 273; noes 98. On the third reading, ayes, 265; noes 103.—ED.

recovering his health. The motion was made by Lord Morpeth; and he took that occasion to pronounce very just encomiums on Horner's private and public virtues. Canning followed him, and joined in these praises, but he spoke of Horner only as a person who was rising into great eminence as a politician. Charles Williams Wynn dwelt also for some time on his many estimable qualities. All these gentlemen were little more than the acquaintance of Horner; but I had had a long and intimate friendship with him; and I thought myself called upon to mention those merits for which I most highly valued him; and to say that which, if he could witness what is now passing amongst us, I thought he would most wish should be said. I noticed particularly his independence of mind, and observed that, while he was taking a most conspicuous part in our debates, and was commanding the admiration of the House, he never relaxed in the most laborious application to his profession (though without any success in it at all proportioned to his merit), because he thought it essential to maintaining his independence that he should look to his profession alone for the honours and emoluments to which his talents gave him so just a claim. I spoke, too, of his eloquence, as being not merely calculated to excite admiration and vulgar applause, but as ennobled and sanctified by the great and virtuous ends to which it was uniformly directed,—the protection of the oppressed, the enfranchisement of the enslaved, the advancing the best interests of the country, and enlarging the sphere of human happiness.* Considering his knowledge, his talents, his excellent judgment, his patriotic intentions, and the prospect of years which he had before him, I consider his death as a great public calamity.

* The speeches delivered on this occasion were published by Lord Holland in a pamphlet, which was translated into Italian by Ugo Foscolo. Most of the speeches so published were corrected by the speakers. It is intended to erect a monument to Horner by subscription, in Westminster Abbey.¹

¹ This has since been done.—ED.

10th, *Mon.* In a Committee of the whole House on the Bill to prevent seditious meetings, I opposed, *Seditious Meetings Bill.* and divided the Committee on the clause, which empowers magistrates to order the taking into custody of persons who utter words which to them appear intended to excite the people to contempt of the Government and constitution ; and if they are resisted, to declare the meeting an unlawful assembly, and command persons to disperse on pain of death. It was a very thin House ; the numbers were 42 for the clause, and 16 against it.

14th, *Fri.* On the third reading of the Seditious Meetings Bill, I spoke against it at some length. The division produced only 44 votes against the Bill, and 179 for it.

18th, *Tu.* On a writ being moved for in the House of Commons to return a member for Bridport, in *Welsh judges.* the place of Sergeant Best, who has been appointed to the office of a Welsh judge, I drew the attention of the House to the nature of the office, and stated how incompatible it was, in my opinion, with a seat in Parliament. Ponsonby said that, after the Easter recess, he would move for leave to bring a Bill into Parliament to disqualify Welsh judges from sitting in the House of Commons.*

On the same day Mr. Lyttelton moved several resolutions expressing the sense of the House on the *Lotteries.* mischievous effects of lotteries, and declaring that they should be abolished. I spoke in support of the resolutions. We both of us endeavoured to make the moral and pious Chancellor of the Exchequer sensible of the wickedness of this measure of finance, which he annually with such complacency resorts to.¹

* He never made this promised motion ; but, instead of it, at the suggestion of some of the Members for Wales, he moved for the appointment of a committee to inquire into the Welsh judicatures. The committee was appointed, but did not make its report till near the end of the Session.

¹ The motion was rejected by a majority of 46 ; the numbers being, for it 26, against it 72. Lotteries were subsequently abo-

21st, Fri. The Bill I have brought in to repeal the Game Act of last Session stood for a second reading to-day. Bankes, who is desirous that it should not pass before the next quarter sessions, if at all, moved to put off the second reading for ten days, on the ground that all the persons who are now in custody under the Act would otherwise be discharged, and escape all punishment. They certainly would; but surely this is better, though some guilty persons would go with impunity, than exposing those who may have committed no greater crime than trying to snare a hare or a rabbit to the risk of being transported for seven years. The House, however, thought otherwise, and put off the second reading. In the course of what I said on this occasion, I took notice of the pernicious effects of our present system of game laws; and particularly observed upon that spirit of inhumanity and ferocity which it seemed to excite in all orders of persons on whom it could be thought to produce any effect. It was not only in poachers, but in the preservers of game, that a savage disposition was every day becoming more manifest. The poachers went out armed, prepared for acts of most desperate violence; while, on the other hand, the practice was becoming every day more frequent of placing spring guns and other engines of death or of mutilation in enclosed grounds and woods, by which the most dreadful calamities were brought often on persons who were perfectly innocent. I stated such expedients to be clearly illegal, and that if the death of a man produced by such means were not murder (as I supposed it was not), yet it was certainly a very aggravated manslaughter in those who placed, and in those who gave directions for placing, the engine where it was found. This practice, to our disgrace, is quite peculiar, I believe, to England. I have never heard or read of such means being resorted to in any other countries, even in

lished in 1823, by 4 Geo. IV. c. 60; and in 1837, the advertising foreign or other lotteries was declared illegal by 6 and 7 Will. IV. c. 66.—ED.

those in which the most severe laws were made and enforced for the preservation of game.

A matter which lately came before the Court of Chancery has been so much misrepresented in some of the newspapers, that it seems desirable to preserve some account of it, such as it really was. Southey, the Poet Laureate, some time in 1793 or 1794, when he was a very young man, wrote a dramatic piece, which he entitled "Wat Tyler." It abounded with invectives against kings, and nobles, and governments, and boldly asserted the claims of the people to a perfect equality of rights, and a division of property. The bookseller, to whom it was given soon after it was written, would not venture to publish it; and it remained disregarded and unknown, till Southey, by the violence of his censures on all those who maintained any popular opinions, provoked his enemies to bring this poem to light, that it might be seen to what extremes, on contrary sides, he at different times had gone. Southey, as the author, and having the copyright of the work, applied on the last seal, the 18th of March, for an injunction to restrain the booksellers from publishing it. I was counsel for the booksellers; and, to oppose the injunction, I was furnished with an affidavit, sworn by Mr. Winterbotham, a dissenting clergyman, who had been prosecuted, in 1794, for some sermons preached by him at Plymouth; and who stated that, while he was confined in Newgate, in consequence of that prosecution, Southey, together with a bookseller of the name of Eaton, came to him in prison; that Southey there produced the play of Wat Tyler, and said he was desirous that it should be published, but that he did not wish to derive any profit from it, and that it was the pure offering of his heart in the cause of freedom. Winterbotham also swore that he had at the time dissuaded the publication, thinking it extremely dangerous; and that he was an entire stranger to the present publication, and was not in any manner, either directly or indirectly, concerned in it. This affi-

Southey's application to the Court of Chancery for an injunction to stay the publication of Wat Tyler.

davit, though sworn, had, by the negligence of the attorney, been omitted to be filed; and upon this objection being made, it became impossible for me to use it. Not being able, therefore, to show that Southey had relinquished his claim to any copyright, and had abandoned the work to the public, I could only submit to the court, that the work was of such a nature that a court of justice could not interpose on behalf of the author of it. The Lord Chancellor was clearly of that opinion, on reading the poem. He thought it (as it unquestionably was) of a most dangerous tendency, and refused to grant an injunction.

Some of the newspapers represented me as contrasting Southey's former with his present opinions, and as describing him giving a fraternal embrace to the person to whom he delivered the poem. Of this there was not a word of truth; but nothing is more common, with some of the newspaper reporters of what passes in courts of justice, than to state speeches and strokes of humour as coming from the counsel, which are the pure invention of themselves, the reporters.

26th, *Wed.* I was prevented to-day, by a very bad cold attended with fever, from going into Court.

I continued confined for several days.

29th, *Sat.* I received, a few days since, a letter from Edinburgh, signed by eighty-nine gentlemen resident there. It began in these words:—
Letter from inhabitants of Edinburgh on the suspension of the Wrongous Imprisonment Act.
 “As inhabitants of this city, we beg leave respectfully, but sincerely, to express the gratitude we feel for the important favours you have conferred on us, and the whole people of Scotland, by procuring an amendment to be inserted in the Bill for suspending the Wrongous Imprisonment Act. Your patriotic exertions have delivered us from a degrading distinction, and lessened the risk of our being exposed to the capricious and wanton tyranny of inferior magistrates.” The letter then proceeds in terms of very high commendation of my conduct in Parliament on this and on other occasions. This letter was enclosed

in one from Mr. M'Culloch, in which he stated that it would have been more agreeable to himself, and to the rest of those who had subscribed the letter, to have voted an address to me at a public meeting; but that he need hardly explain the difficulties in the way of such a proceeding, and that no rotten borough in the kingdom was as rotten as Edinburgh; that the mass of the citizens seemed to have lost all sense of the value of freedom; and that an apprehension of appearing singular, and of drawing on themselves the hatred of power, prevented many, really impressed with liberal sentiments, from venturing to express them; but that better times seemed to be approaching. He likewise mentioned that it was wished, if I saw no objection to it, that the letter of thanks to me should be published. I returned an answer in these words:—

“Sir,

“March 29, 1817.

“I have received the honour of your letter of the 22nd instant, enclosing one signed by many gentlemen residing at Edinburgh, in which they are pleased to convey to me their thanks for the alteration which I procured to be made in the Act of Parliament recently passed, for suspending the Scotch Act to prevent wrongous imprisonment; and to express their approbation of my general conduct as a Member of Parliament. It has been extremely gratifying to me to find my conduct approved and applauded by gentlemen who are themselves so highly respectable; and I beg that you would have the kindness to express my sincere acknowledgments to them. I have to thank you, too, Sir, for the kind manner in which you have made this communication to me. You observe that it is the wish of the gentlemen who have signed the letter to make it public, if I see no objection to it. There is but one objection, and that is a very serious one: it is, that the gentlemen who have subscribed it have expressed their opinion of me in terms a great deal too flattering, and have gone much beyond any praise that I can aspire to.

If it were not for this objection, I should have thought it extremely desirable that the letter should be published. It appears to me to be of great importance that there should be some declaration of public opinion on the subject of the law which the Ministers fully intended should have been passed for Scotland. It is generally supposed that before the present Act expires a new Bill will be brought in for continuing it; and the declaration made by the Lord Chancellor, when the amendments of the House of Commons were taken into consideration by the Lords, can leave little doubt that, if a new Bill is brought in, it will be in the terms in which the present law was originally framed;* and how such an evil is to be averted I know not, if it shall appear that the people of Scotland are really indifferent about it.

“I have the honour to be,” &c. †

April 4th. I still continued unwell, and to-day (Good Friday) being the first day that I was sufficiently recovered, I removed to Tanhurst. We had the comfort of having William and all our other children with us. We stayed till Tuesday, 15th April, when I returned nearly, if not quite, well.

14th, *Mon.* The House of Commons stood adjourned to this day; but the Speaker being ill, it was farther adjourned to Thursday, April 24th. House of Commons adjourned on account of the Speaker's illness. On that day it met.

26th, *Sat.* Met to-day, at dinner at G. Philips's, the Bishop of Norwich (Dr. Bathurst). It is the first time that I have seen him. He appears to be a most delightful old man, and the exact pattern of what a Christian Bishop ought to be.

* The new Bill which was afterwards brought in was not in the terms of the Bill as originally brought in, but adopted the alterations made by the Commons.

† A few days afterwards, without any further communication with me, the original letter to me, together with this answer of mine, were published in a Scotch newspaper called *The Scotsman*.

28th, *Mon.* On presenting a petition to the House of Commons from some inhabitants of Gloucestershire, complaining of the expense and delay which attends the recovery of small debts, I took occasion to mention the great abuses which exist in the Common Law Courts in bringing writs of error. The extent of these abuses came to my knowledge by mere accident. I some time ago franked a letter for some person who was a stranger to me, addressed to the debtors in the gaol of Liverpool. The letter was over weight, and, as none of the prisoners would pay the postage of it, it was returned to me from the post-office as to the person who had franked it. Seeing that it was a very thick letter, and not knowing but that it might contain money, I opened it, in order that I might send the contents of it under different covers. It did in fact contain a letter of recommendation of a person in the Temple to act as agent of insolvent debtors; a number of his cards to be distributed amongst the prisoners; and a paper of advice to debtors, which the writer recommended should be preserved for the benefit of the future, as well as the present, inhabitants of the prison. This paper pointed out to debtors the modes by which they could most effectually annoy and harass their creditors, delay their proceedings, and weary them out for expense. The best modes of pleading sham pleas, bringing writs of error, and filing injunction bills, were pointed out; and various modes by which, according to the calculation in the paper, a debtor might, at the expense of five guineas to himself, put his creditor to the expense of 100*l.*; and for 24*l.* and a fraction, oblige him to pay in fees and expenses above 300*l.* I stated the facts contained in this paper in the House of Commons; but, on account of the mode in which I had learned its contents, I omitted to mention the name of the writer.

May 7th, Wed. A clergyman of the name of Thirlwall, who was also a magistrate for Middlesex, was brought to-day to the bar of the House of Commons for a breach of privilege, in an attack made by him in print on the Committee appointed to inquire

into the police of the metropolis. I had taken no part, but I was present in the House on a former night when he was ordered to attend; and in consequence of something which passed to-night on the subject, I explained why I had silently concurred in the resolution. It was not that I had at all altered my opinion on the subject of privilege; but the publication in the present case consisted of charges of partiality and misconduct in the Committee whose labours were unfinished, who had merely reported evidence, but had not yet come to any conclusion, or reported their opinion; and it was published manifestly to influence their proceedings, and the future proceedings of the House. After making an apology, and expressing his contrition, Mr. Thirlwall was dismissed without any further proceeding.

9th, *Fri.* Mr. Grattan moved in the House of Commons for a Committee on the state of the ^{Catholic} ~~emancipation~~ Catholics. The question was lost, after a long debate, by a majority of 24; 245 against the question, and 221 for it. Canning and Lord Castlereagh both spoke in support of the motion; Lord Castlereagh well, Canning extremely ill, and very little like one who was in earnest. They were probably neither surprised nor concerned at being left in a minority. After being outvoted in the Cabinet, it is not wonderful that they are outvoted in the House of Commons. They still continue in office; though they admit this measure, which they are thus prevented from carrying, to be one of the most important that can at the present moment engage the attention of Government. All the Prince's personal friends voted against the Catholics.

15th. Three days ago I received from my excellent friend Dr. Parr a letter, in which he tells me ^{The Rev. Dr.} Parr. that, in the two last wills which he has made, he has left me a large quantity of plate; that it is an article in which he is very rich, it being known, he says, that, among many other peculiarities, he is a man "cui stupet insanis acies fulgoribus;" and that, in consequence of this fondness for masses of gorgeous plate, he might well be called Philargyrus. That he had bought much,

and much had been given him by his friends and his pupils ; that, being grown old, he had lost the enjoyment of these things, and that he had come to a determination to convert his legacy into a gift, and to send it me in his lifetime : and he adds, that previously to his late marriage, he had apprized his wife of the promises he had made, and the legacies he had given ; and had told her that nothing should ever induce him to violate the one or revoke the other. The letter is full of kindness to me, and expresses warm approbation of my principles and conduct ; and concludes with a request, that I would at some distant time let my children read that his unfeigned testimony to what he is pleased to call the moral and intellectual merits of their father. This letter¹ has

¹ The following is the letter referred to.—ED.

“ Dear Sir Samuel Romilly,

“ Though neither to you nor Mr. Fox did I ever utter one syllable upon clerical preferment, yet I had a sincere and deep conviction that he, if he had continued Minister, would have given me a place on the Bench of Bishops, and that you, if you had been Chancellor, would have seated me in some lucrative and honourable prebendal stall, and perhaps thrown in a living, as a kind of ‘ *mantissa*. ’

“ My judgment and my feelings lead me to assign to the anticipated will all the merit of the actual deed. I had long been accustomed to look with reverence on the talents of those two worthies, with affection upon their virtues, with triumph on their sympathies with my own political sentiments ; and strange it were if the genial (or I should rather say the holy) warmth of gratitude had not strengthened my confidence and heightened my joy ! I seldom dissemble what I really think ; I never profess what I *do not* really feel ; and, therefore, after noting these preliminary declarations, I shall proceed to business. You may have heard that, among other peculiarities, I am a man

‘ *Cui stupet insanis acies fulgoribus.* ’

So strong, indeed, and so inveterate is my saving habit, that, in consequence of my fondness, not for bags of hoarded money, but for masses of gorgeous plate, I may justly be called *Philargyrus*.

“ Remembering the danger of alliance between poverty and pride, I never expended upon plate more money than, consistently with my own views of a moderate and decent competency, I could well spare ; and so it is that many of my pupils, and many of my friends, knowing my love of finery in this one way, have decorated my table with many valuable presents. But our gratifications vary

not a little embarrassed me. I have so long known Dr. Parr, and have received so many proofs of his attach-

with our changes in years. 'Thy servant,' said Barzillai to David, 'is this day threescore and ten years old; and can I hear any more the voice of singing men or of singing women? Can I taste what I eat, or what I drink?' This, dear Sir, is the language of uncorrupted nature, and thus, in the spirit of old Barzillai, having passed my seventieth year, I shall cease to have the same pleasure in gazing upon my silver. I recollect with satisfaction the joy which it has so long given me. I do not want it for my own use—I do not desire it, and I wish to distribute it among those whom I love and respect, as a memorial of my friendship; and I will not wait for death as a signal for me to part with that which I could not either employ, or even behold in the grave. Under such impressions, I have this year given away plate to the value of near a thousand pounds. Some I have sent away; other articles I have secured to the owners by having their names inscribed, and, with their permission, I retain them for my occasional use, subject, however, to the peremptory demands of the several claimants. Thus I have the exquisite satisfaction of knowing that my friends see and feel the sincerity of my regard. Before marriage, I, with my wonted plain dealing, told Mrs. Parr that I had given certain promises, and made certain bequests; and I added explicitly, that no earthly consideration should induce me to violate one promise, or to revoke one bequest. Though the chief produce of the harvest be carried to other barns, the gleanings are quite sufficient for all purposes of real convenience, or reasonable vanity, in the widow of a country parson. And now, dear Sir, we come to the application of these garrulities as it may concern Sir Samuel Romilly. In my two last wills I have left you the following particulars:—'Forty-eight silver plates, four silver covers, which, being divided, will occasionally make eight dishes; two large silver dishes, a gorgeous silver tureen and stand, a silver waiter, which, from its bulkiness and exquisite workmanship, is not unfit for the sideboard of a Lord Chancellor when he entertains the Cabinet, or the whole Bench of Judges, with the Attorney and Solicitor General at the bottom of the table.' Last summer I determined to offer these things to you before I died. I determined to send them to you. That determination cannot be shaken. Pardon, dear Sir, my honest pride, when I express my hope that, like my other friends, you will on each article put a little memorandum of my name; and, casting away all superfluous and spurious delicacy, tell me how Dr. Parr can, with more propriety, bequeath these precious decorations of his table, than by presenting them to a man who, for so many years, and on so many accounts, has been entitled to his regard, his reverence, and his confidence, as Sir Samuel Romilly!

"In the course of the year we will make arrangements for the conveyance. I shall put the whole into a strong box or two. I shall

ment to me, that I should be extremely sorry to give him any offence, and yet I by no means wish to receive his present. I have accordingly written to him to induce him to retain his plate as long as he lives, and to let it come to me only if I should happen to survive him.

16th, *Fri.* On the Bill respecting the residence of the clergy, upon which the House went to-day ^{Residence of the clergy.} into a Committee, much was said about the means best calculated to enforce residence. I did not take any part in the debate; but the most effectual mode of enforcing residence would certainly be to make non-residence a defence to a suit for tithes; and I mentioned this to Sir William Scott, to Lord Ebrington, and to Mr. Babington, who had spoken in the debate.

20th, *Tu.* Sir Francis Burdett moved for a Committee to inquire into the state of the representation. I spoke and voted for the motion. ^{Parliamentary reform.} It was lost by a very great majority—there being only 77 who voted for it.¹

21st, *Wed.* Mr. Peel moved for and obtained leave to bring in a Bill to continue the Irish Insurrection Act. ^{Irish Insurrection Act.} I intended to have opposed it; but knowing that Sir Henry Parnell meant to oppose it too, I waited for him to rise first, as he meant to do. But the question having been put very hastily, it was declared by the Speaker to be carried, before he had risen; and it has, therefore, passed without opposition.

send my trusty servant to Russell-square; and you, if it be your pleasure, shall pay his travelling expenses to and from London. Thus, I have unburthened my soul. Give my best compliments and best wishes to Lady Romilly; and, at some distant time, let your son² read this my unfeigned testimony to the moral and intellectual merits of his excellent father. I am, dear Sir, your most sincere friend and faithful obedient servant,

“SAMUEL PARR.

“Hatton, May 10, 1817.”

¹ See Appendix.—ED.

² 265 voted against it; making a majority of 188 against the motion.—ED.

22nd, *Th.* A petition was presented to the House of *Bankrupt Commons*, signed by many bank directors, and *Laws.* by all the principal bankers in London, complaining of the abuses which exist under the present mode of executing the Bankrupt Laws. I took this opportunity to state my opinion of the present system of Bankrupt Law, which I did at some length. Amongst other things I observed, that the excessive severity of the law, which punishes capitally the offence of a bankrupt not appearing to his commission, and that of his withholding property from his creditors to the amount of 20*l.*, defeated the object of the law altogether. Though the crime was extremely common, and though the law had been in force now for more than eighty years, there had not been altogether more than five or six convictions under it. Men chose rather to submit patiently to the gross frauds which were practised on them, than to become parties to the execution of such cruel and sanguinary laws.

23rd, *Fri.* I opposed, on the second reading, the *Irish Insur- rection Act.* further progress of the Bill for continuing the Irish Insurrection Act, on the ground that a measure of such extraordinary severity ought not to be continued but in case of absolute necessity; and that that necessity could not be apparent without an inquiry into the state of Ireland. That it was quite unjustifiable to persevere in such a system upon no better grounds than the mere statements of the Irish Secretary. None of the members for Ireland supported me in this opposition, except Sir Henry Parnell and General Matthew.

25th and 26th. Whitsunday and Monday spent at Holland House. Brougham there.

Resignation of Mr. Abbot, and choice of a new Speaker. 30th, *Fri.* Mr. Abbot, the Speaker, resigned the chair.

June 2nd, Mon. Mr. Charles Manners Sutton (the Judge Advocate, and son of the Archbishop of Canterbury) was chosen Speaker, he being supported by the Ministry. The numbers were—312 for him, 152¹ against him. The other member who was pro-

¹ Tellers included.—ED.

posed was Mr. Charles Williams Wynn, a man far more eminently qualified for the chair than Mr. Sutton, and who has, by long attention to the subject, made himself completely master of the law of Parliament and the forms of Parliamentary proceeding.

6th, *Fri.* A Bill brought into the House of Commons to enable the clergy to grant leases for ten years of their tithes, with the consent of the patron and ordinary, which shall be binding on their successors, went through a Committee of the whole House. In the course of the debate which took place on it I mentioned the great evils that arise from the length of time which it is necessary to go back to establish any custom in bar of a demand for tithes, namely, to the time of Richard I.; though, with respect to all other property, sixty years is sufficient.

13th, *Fri.* On a motion for going into a Committee on the Irish Insurrection Bill, I again resisted the further progress of it, and supported a motion of Sir Henry Parnell for an inquiry into the facts which were stated as the grounds of proposing the measure. General Matthew and Sir William Burroughs were the only other members who opposed the Bill now; as they were the only members who had, together with myself and Sir Henry Parnell, opposed the second reading.

17th, *Tu.* Watson, who was tried for high treason at the bar of the Court of King's Bench, was yesterday acquitted. The trial had commenced on the Monday preceding, and, consequently, had lasted seven days; the Court adjourning every evening, and the jury being kept by themselves at a tavern in Palace-yard. The prisoner was indicted together with three other persons—Thistlewood, Preston, and Hooper; but, as the prisoners severed in their challenges of jurymen, it was necessary to try them separately. Watson being acquitted, the Crown lawyers did not think proper to proceed with the other trials; but, this day, on the prisoners being brought to the bar, declined to produce evidence against them, and they were all acquitted. The facts charged as constituting high treason in Wat-

Tithes.

*Irish Insur-
rection Act.*

*Watson tried
for high
treason and
acquitted.*

son, were the disturbances and acts of violence which took place in the metropolis on the 2nd of December last, in consequence of the meeting in Spa-fields, and which were represented to be the result of a previous conspiracy of the prisoners to overturn the Government. Ministers, whose object it has been to give an extraordinary degree of importance to every appearance of disaffection or tumult which has manifested itself in any part of the kingdom, thought proper to commit the prisoners to the Tower, to try them at the bar of the King's Bench, and to arraign them of high treason. If they had been committed to Newgate, tried at the Old Bailey, and indicted merely for a very aggravated riot, they would, without doubt, have been convicted. Instead of this they are declared innocent, and they escape all punishment, except, indeed, a long and close imprisonment previous to trial, which, as they have been finally acquitted, has the appearance of a great injustice done to them.

18th, *Wed.* I took part in the debate on Lord Folkstone's motion,¹ for the purpose of reprobating the illegal and unconstitutional doctrine contended for by the Attorney and Solicitor General, that the Crown, by committing men to prison charged with treason, or on suspicion of treason, might prevent any magistrates having access to them; notwithstanding that, by the statute 31 Geo. III., magistrates are expressly authorised to visit gaols, for the purpose of detecting and reporting to the sessions abuses which they may discover.²

19th, *Th.* Dr. Parr would not listen to my representations; and this day his servant arrived by a stage-coach from Hatton, with the plate destined for me packed up in two boxes. It is much more splendid and valuable than I had imagined; so valuable

¹ Lord Folkstone's motion was for copies of all instructions sent by the Secretary of State to all gaolers, magistrates, or other persons, respecting the custody and treatment of persons confined in consequence of the suspension of the Habeas Corpus Act.

² The motion was lost by a majority of 29; the numbers being, —for it 56, against it 85.—ED.

that I feel very great regret at his having sent it, notwithstanding that it is so flattering a testimonial of his good opinion of me.¹

Curwen moved for leave to bring in a Bill to amend the law with respect to tithes. He understands little of the matter himself; and what he is doing is at the suggestion of Mr. Baron Wood, Curwen's Bill respecting tithes, drawn by Baron Wood. who has already drawn for him the Bill which he intends to bring in. The principal objects of it are, as I understand them, to authorize the receiving usage as evidence of a real composition, where the deed itself cannot be produced, and as evidence of exemptions or discharges from tithes claimed under dissolved monasteries; and to allow of presumptions of grants and conveyances of tithes from long usage as against lay proprietors.

¹ The following letter to Dr. Parr, in acknowledgment of this present, is taken from Dr. Johnstone's publication of Dr. Parr's Memoirs and Correspondence.—ED.

“ My dear Sir,

“ Russell-square, June 23, 1817.

“ Lady Romilly informed you of the safe arrival of your servant with the plate, and he will, probably, before you receive my letter, have got safe back to Hatton. When I saw the full display of your magnificent present, I was very much dazzled with its splendour. It very far surpasses what I had expected, from your account of it, in beauty and in value. Rich, however, and magnificent as it is, its greatest value in my eyes will always be, that it was yours; that I received it as a present from you; and that it will remain with me a splendid memorial of the good opinion which a man, whom I have so honoured and respected as I have you, is kind and partial enough to entertain of me. It is impossible that I should ever behold it without a feeling of pride at having been so honoured by you; and I have the greatest satisfaction in reflecting that, when I shall have long been in my grave, it will still continue the evidence in my family of the estimation in which I was held by Dr. Parr. That you may long live in the enjoyment of all the happiness you can desire, and that I may never forfeit any part of your good opinion and your friendship, are the sincerest wishes of my heart.

“ I remain, dear Sir, with great gratitude and warm affection,

“ Your most sincere and faithful friend and servant,

“ SAML. ROMILLY.”

I spoke in support of the Bill, as far as I understood these *Sir Wm. Scott.* to be its objects.* Sir Wm. Scott, who, as member for the University of Oxford, conceives himself bound to watch with great jealousy every innovation with respect to ecclesiastical property, expressed great doubt about the Bill, and reserved to himself a right to oppose it in its future stages, though he acquiesced in its being brought in.

On the same day, on a motion of Sir Egerton Brydges, for leave to bring in a Bill to alter and amend the *Act of the King* [54 Geo. III. c. 156] respecting the copyrights of authors, I expressed my disapprobation of that clause *Authors un- justly taxed.* of the Act which makes it necessary for authors, whether they desire to derive benefit from the Act or not, to give printed copies of every work they publish to the Universities and other public bodies, as a most unjustifiable tax upon literature.

20th, *Fri.* I presented a petition to the House of Commons against the further suspension of the *Habeas Corpus*, signed by 1400 of the inhabitants of Hull. The petition occasioned some debate on the Bill, and on the conduct of Government with respect to the persons who had been arrested and prosecuted, particularly those in Scotland; in the course of which the conduct of the *Lord Advocate*, *The Lord Advocate of Scotland.* in preferring three different indictments for the same offence, was by some members (particularly Lord Archibald Hamilton, Brougham, and Finlay) much censured. I took occasion to observe, that I had heard that the *Lord Advocate*, though he had preferred three indictments against the same prisoner successively for felony (the two first being held to be bad), had every time procured him to be committed on a charge of treason, that he might be confined in the Castle of Edinburgh, and under closer confinement than he could be if

* A few days after this Baron Wood sent me a little tract he has printed, entitled "*Observations on Tithes and Tithe Law*," with a note, in which he told me, that he hoped I should support the Bill in all its future stages.

only charged with felony. The Ministers professed to be ignorant of the matter, and the Lord Advocate was absent.

23rd, *Mon.* The Act for farther suspending the Habeas Corpus having been brought down from the Lords last Friday, was, on this day, read a first time in the House of Commons. A long debate took place, in which I opposed the Bill to the best of my abilities, and in a speech of some length, which was very favourably listened to.¹ *Habeas Corpus Suspension Bill.*

25th, *Wed.* I submitted to the House of Commons some motions on the subject of Lord Sidmouth's circular letter to the lieutenants of counties, written on the 27th of March last. I moved, as Lord Grey had before done in the House of Lords, for a copy of the case upon which the opinion of the law officers had been given; and I moved two resolutions besides, pointing out and censuring the unconstitutional nature of that proceeding. The view which I took of the case is embodied in these resolutions. The letter is in these words:—

“ As it is of the greatest importance to prevent, as far as possible, the circulation of blasphemous and seditious pamphlets and writings, of which, for a considerable time past, great numbers have been sold and distributed throughout the country, I have thought it my duty to consult the law servants of the Crown, whether an individual found selling, or in any way publishing, such pamphlets or writings, might be brought immediately before a justice of the peace, under a warrant issued for the purpose, to answer for his conduct. The law officers, having accordingly taken this matter into their consideration, have notified to me their opinion, that a justice of the peace may issue a warrant to apprehend a person charged before him upon oath with the publication of libels of the nature in question, and compel him to give bail to answer the charge. Under these circumstances, I beg leave to call

*Lord Sid-
mouth's cir-
cular letter
to the lieute-
nants of coun-
ties.*

¹ On the division, the numbers were—for the first reading of the Bill 276, against it 111; majority 165.—*Ed.*

your Lordship's attention very particularly to this subject; and I have to request that, if your Lordship should not propose to attend in person at the next general quarter sessions of the peace, to be holden in and for the county under your Lordship's charge, you would make known to the chairman of such sessions the substance of this communication, in order that he may recommend to the several magistrates to act thereupon, *in all cases* where any person shall be found offending against the law in the manner above mentioned. I beg leave to add, that persons vending pamphlets or other publications in the manner alluded to, should be considered as coming under the provisions of the Hawkers' and Pedlars' Act, and be dealt with accordingly, unless they show that they are furnished with a licence, as required by the said Act.

“ I have the honour to be, &c.,

“ SIDMOUTH.”

The resolutions which I moved were,—“ That it is highly prejudicial to the due administration of justice for a Minister of the Crown to interfere with the magistrates of the country in cases in which a discretion is supposed to be by law vested in them, by recommending or suggesting to them how that discretion should be exercised. Secondly, That it tends to the subversion of justice, and is a dangerous extension of the prerogative, for a Minister of the Crown to take upon himself to declare in his official character to the magistracy what he conceives to be the law of the land; and such an exercise of authority is the more alarming, when the law so declared deeply affects the security of the subject and the liberty of the press, and is promulgated on no better authority than the opinions of the law officers of the Crown.” The motion for the copy of the case was negatived; and the resolutions were got rid of by the previous question, moved by the Attorney-General.¹ I felt this to be a matter of considerable importance, and took great pains to

¹ By a majority of 108; the numbers being, for the resolutions 49, against them 157.—ED.

point out,* at very considerable length, the mischief of allowing the executive power to assume to itself the exercise of a discretion vested by law in judicial officers; and to presume in matters, if doubtful, to solve these doubts, and pronounce what the law is. The new Solicitor-General¹ took part in the debate; but he confined his speech to the question of law, as to the power of magistrates to hold to bail for a libel before indictment.

26th, *Th.* On the Bill for the further suspension of the Habeas Corpus, Lord Folkstone moved in the Committee to expunge the clause which extends the Bill to Scotland. I supported his motion, and contended, that the last Report of the Secret Committee, which afforded the only grounds on which the present measure was proposed, did not take the least notice of Scotland; and, as it had been admitted by the Ministers that it had not been found necessary in a single instance to exercise in Scotland the authority given them by the Act which was about to expire, there could be no reason for continuing it in that part of the kingdom. No answer was given to these observations, but Lord Folkstone's motion was rejected.²

*Wrongous
Imprisonment
Act. Suspension Bill
in Scotland.*

27th, *Fri.* This was the third reading of the suspension of the Habeas Corpus Bill, and a long debate on it took place.³ The Lord Advocate of Scotland was in the House, and just as the question was about to be put, at near one o'clock in the morning, he started up and said, he had been all night waiting in his place, expecting to hear the charges preferred against

*M'Conochie
Lord Advo-
cate of Scot-
land.*

* The *Times* newspaper, in giving an account of this speech, mistaking something that I said of the appointment of the new Solicitor-General, made me pay a high compliment to Garrow for his independence, &c. &c., though nothing could be further from my intention than to pay him any compliment; and I never named him or alluded to him.

¹ Sir Robert Gifford; Sir Samuel Shepherd having been promoted to the Attorney-Generalship.—ED.

² By a majority of 81; the numbers being, against Lord Folkstone's motion 129, in favour of it 48.—ED.

³ The Bill was carried by a majority of 130: for it 195, against it 65.—ED.

him, which he understood had been brought forward in his absence, and he complained of the unfairness of so attacking him behind his back, and saying nothing when he was present to defend himself. He seems to have thought that all other matters, as being of far inferior consideration, ought to have been laid aside the moment it was discovered that he was in the House. Talk no longer about the liberties of the nation or the preservation of the Constitution, for behold, the Lord Advocate in his place, and ready to enter upon his defence! His defence indeed was a singular one. He admitted the fact of his having caused the prisoners at first, and after each indictment, to be committed on a charge of treason; but he represented the committing them at the same time on the two charges of treason and felony as having been done for their benefit and protection, and to prevent the possibility of their being detained as long as the prosecutor might have detained them without bringing them to trial, if the commitments had followed each other at intervals, instead of being contemporaneous. The sum of which, if I understood him, was, that he had protected the prisoner against an abuse of power by himself; but surely he might have trusted himself not to have recourse against the prisoner to dilatory proceedings, for the mere purpose of oppression and vexation. If it was *not intended* to try them for treason, why were they three times committed on such a charge? and if they *were* to be tried for treason, why were indictments first preferred against them for felony? With respect to the charge brought against him by Lord Archibald Hamilton, he denied that the two first indictments he had preferred had been quashed as being bad; but Brougham, who had in his pocket the printed account of these proceedings, proved his Lordship's statement to be very incorrect.* The Lord Advocate said that he had come from Scotland purposely to answer these imputations. It was certainly the general opinion that he had much better

* On the third indictment, one of these men, M'Kinlay, was brought to trial in July, and was acquitted, after having suffered a close imprisonment of many months.

have stayed where he was. He has indeed made a very poor figure both here and in Edinburgh, where he has gone on from one blunder to another in the whole course of his state prosecutions. It appears strange that a man of such limited abilities should have been raised to so important a situation ; but the truth is, that all the men at the Scotch bar, who are most considerable for *The Scotch bar.* learning, talents, and reputation, are in opposition to Government ; such as Clerk, Cranstoun, Jeffrey, Murray, Moncreiff, Thomson, and Grant.

29th, Sun. Dined at Richard Wilson's, at Fulham. Met there Pionkowski, the Pole, who was with Bonaparte at Elba, attended him on his entry into France, and came over with him to England. He was not allowed to accompany Bonaparte to St. Helena, but was permitted afterwards to join him, and was with him a year at St. Helena. I had a good deal of conversation with him. He says that Bonaparte's sole occupation is the writing his memoirs, to which he devotes a great deal of time every day, and he makes his attendants copy out fair what he writes. Pionkowski complains that Bonaparte is treated with great insolence and harshness by Sir Hudson Lowe, and is exposed to great hardships. It must be observed, however, that he is an enthusiastic admirer of Bonaparte, and seems disposed to exaggerate.

30th, Mon. The Act for farther suspending the Habeas Corpus Act received the Royal assent.

The same night Mr. Ponsonby was seized, in the House of Commons, with an apoplexy, of which he died on Tuesday, July 7th. He was a very honest man, had many excellent qualities, and possessed very considerable talents ; but he was by no means fit for the situation which he has for ten years occupied—that of leader of the party of Opposition.

July 9th, Wed. By a motion for papers, I brought to the notice of the House of Commons a very flagrant instance of the inefficiency of West Indian laws for the protection of slaves. A man of the name of Birmingham had brought some of his

slaves to trial, in 'the island of Dominica, for an offence of which the magistrates before whom they were brought 'acquitted them. After their acquittal, their master brought them out into the market-place, and, of his own authority, inflicted upon them the same punishment as they would have suffered by law if they had been found guilty. For this offence an indictment was preferred against him. The grand jury, by a majority of two, threw out the bill, it being understood that ten of the grand jury were for finding it a true bill, and twelve for rejecting it. At the same court, which was held in February last, another indictment was preferred against one Le Guay, for cruel treatment of a female slave, whom, though pregnant, he had loaded with irons, and beaten with such violence that he had broken her arm. This bill, too, the grand jury threw out. There was a third bill, preferred against one M'Corry, for cruel treatment of a slave, the circumstances of which I am not informed of; but this, as well as the other bills, had the sanction of the Attorney-General, and was preferred by his direction, and was signed by himself: this bill was also thrown out by the grand jury. But they were not satisfied with this, but thought proper to present, as a nuisance, the preferring indictments against individuals for cruelty towards slaves. The presentment, after presenting the bad state of the gaol, proceeds in these words:—"The grand jury have farther to present the dangerous* consequences which are likely to occur from the number of indictments† for unmerited punishments inflicted on negroes by their owners, managers, or employers, which have been laid before them this day, unsupported by any evidence whatsoever.‡ On the contrary, it appeared from the evidence, that in *some* of the cases the negroes merited the punishment they received." In my statement I omitted the mention of any names. I have no doubt of the accuracy

* As if the danger were not from rendering the slaves desperate by making them sensible that they had no protection from the law.

† There were only the three already mentioned.

‡ The evidence on the first indictment had been sufficient to satisfy ten of the grand jury.

of the facts stated by me, as I have seen them detailed in a letter from Archibald Gloster, the Chief Justice of the island. It was only last term that, in the case of the King *v.* Hatchard, the Court of King's Bench declared that it was a libel to state of any West Indian grand jury that they would not find a bill of indictment against a person guilty of cruel treatment of his slaves.

The Act of the 51st of the King, to prevent arrests on mesne process for debts of less amount than 15*l.* being to expire at the close of the present session, I brought a Bill into the House of Commons to continue it for six years, which passed both Houses without opposition.

Statute 51
G. III. c. 124,
to prevent
arrests for
small debts,
continued.

12th, Sa. Parliament was prorogued.

Parliament
prorogued.

I have given a closer attendance in the House of Commons, and have taken a greater part in the debates during this session, than I have done in any preceding one. It was my duty to do so; for never since I have been a member of the House, has any subject come before Parliament of nearly the importance of that which has constituted the great business of the session—the suspension of the Habeas Corpus Act. I felt deeply the loss which the public had sustained by the deaths of Horner and of Whitbread; who, if they had lived and had enjoyed health, would no doubt have been the most powerful opposers of that unnecessary and most unconstitutional measure; which has established a precedent of tyranny, of which, it is to be feared, the worst use will in aftertimes be made. Thinned as the ranks of Opposition have lately been, it becomes each of us who remain to do all we can to resist the pernicious measures of Government. The exertions I have made, to my own very great personal inconvenience, and to the great interruption of my professional occupations, and consequently with no small pecuniary sacrifices, will, I make no doubt, be ascribed by many persons to an eager desire to turn out the present administration, and to obtain for myself the office of Lord Chancellor, to which it may naturally enough be supposed that I should in such an

event aspire. How little do those who ascribe my conduct to such motives know me! With the utmost sincerity I can declare that I have no such ambition. I am deeply impressed with the conviction that that high station would add nothing to my happiness, or even to my reputation. Already I have attained the very summit of my wishes. The happiness of my present condition cannot be increased: it may be essentially impaired. I am at the present moment completely independent both of the favours and of the frowns of Government. The large income which I enjoy, and which is equal to all my wishes, has been entirely produced by my own industry and exertion; for no portion of it am I indebted to the Crown: of no particle of it is it in the power of the Crown to deprive me. The labours of my profession, great as they are, yet leave me some leisure both for domestic and even for literary enjoyments. In those enjoyments, in the retirement of my study, in the bosom of my family, in the affection of my relations, in the kindness of my friends, in the good-will of my fellow citizens, in the uncouthed popularity which I know that I enjoy, I find all the good that human life can supply; and I am not, whatever others may think of me, so blinded by a preposterous ambition as to wish to change, or even to risk,

“ These sacred and homefelt delights,
This sober certainty of waking bliss,”

“

for the pomp, and parade, and splendid restraints of office: for the homage and applause of devoted but interested dependants; for that admiration which the splendour of a high station, by whomsoever possessed, is always certain to command; and for a much larger, but a precarious, income, which must bring with it the necessity of a much larger expense. The highest office and the greatest dignity that the Crown has to bestow might make me miserable: it is impossible that it could render me happier than I already am. One great source of misery to me in such a situation, the public, and even my most intimate friends, little suspect: it is the consciousness that I am not qualified to discharge properly its most

important duties. I have neither that knowledge in my profession, nor those gifts of nature, which such duties demand. Destitute of all talents I know that I am not. The faculties which I do possess I believe I fully and justly appreciate; but in those which are most essential to a Judge, in strength of memory, and in the power of fixing the attention on one single object, and abstracting the mind from all other considerations, I know myself to be most lamentably and irremediably deficient. Often in earlier life when I was looking up to that eminent station as that to which I might one day be raised, and when I was planning, and enjoying by anticipation, essential reforms to be effected and beneficial laws to be passed, I have been haunted by a deep sense of my disqualifications; and, contrasting these with the erroneous opinions which others entertained of me, I have thought how soon, if I were seated on the Bench, I should undeceive my too partial friends and a mistaken public; and with what truth there might be said of me something of the same kind as was observed of Galba—"omnium consensu capax Imperii, nisi imperasset."

19th, Sat. Went to Cumberland Lodge in the evening, and stayed there till Monday morning the 21st.

26th, Sat. Again at Cumberland Lodge; returned the 28th.

August 13th. The misrepresentations made by the newspaper reporters of what passes in the Court of Chancery are so frequent that it would be endless to notice them. But some which have appeared lately are of so extraordinary a nature that they cannot be accounted for by misconception, but seem evidently the effect of design and system. The *Morning Chronicle* has been endeavouring to justify or extenuate the Chancellor's unexampled and cruel delays; and for this purpose it has sometimes represented me, and sometimes Sir Arthur Piggott, as praising him in high and extravagant terms for the mode in which he discharges the duties of his office. At other times it makes the Chancellor himself express the painful anxiety he feels to do justice, and the hours he con-

*Newspaper
misrepres-
sentations of the
proceedings in
Chancery.*

sumes in endeavouring to discover the truth of each case. These representations, however, are mere fictions. Not only the expressions contained in these newspapers were never used, but nothing passed which could afford a pretext for pretending that they had been used. The substance as well as the language, the panegyrics and the apology, are all pure invention.

24th, Sun. I left town for Tanhurst.

After passing a fortnight at Tanhurst, I set out (Sept. 8th), with my dear Anne and Sophy, to pay a few visits. The first was to my friend Phelps, at Chevenage, a house which he has lately taken near Tetbury, in Gloucestershire. In his neighbourhood, or, at least, within a morning's ride, are Dursley, Berkeley Castle, Frocester Hill, and the Vale of Rodborough. We visited all these places, and passed our time most agreeably; and, on the 14th of *Bowood Park*. September, left Chevenage for Bowood. We stayed there ten days. The amiable disposition of Lord and Lady Lansdowne always renders this place delightful to their guests. To me, besides the enjoyment of the present moment, there is always added, when I am at Bowood, a thousand pleasing recollections of past times; of the happy days I have spent, of the various society of distinguished persons I have enjoyed, of the friendship I have formed here; and above all, that it was here that I first saw and became known to my dearest Anne. If I had not chanced to meet with her here, there is no probability that I ever should have seen her; for she had never been, nor was likely, unmarried, ever to have come to London. To what accidental causes are the most important occurrences of our lives sometimes to be traced! Some miles from Bowood is the form of a white horse, grotesquely cut out upon the downs, and forming a landmark to a wide extent of country. To that object it is that I owe all the real happiness of my life. In the year 1796 I made a visit to Bowood. My dear Anne, who had been staying there some weeks, with her father and her sisters, was about to leave it. The day fixed for their departure was the eve of that on which I arrived; and, if nothing had occurred to disappoint

their purpose, I never should have seen her. But it happened that, on the preceding day, she was one of an equestrian party which was made to visit this curious object; she over-heated herself by her ride ; a violent cold and pain in her face was the consequence. Her father found it indispensably necessary to defer his journey for several days, and in the mean time I arrived. I saw in her the most beautiful and accomplished creature that ever blessed the sight and understanding of man. A most intelligent mind, an uncommonly correct judgment, a lively imagination, a cheerful disposition, a noble and generous way of thinking, an elevation and heroism of character, and a warmth and tenderness of affection such as is rarely found even in her sex, were among her extraordinary endowments. I was captivated alike by the beauties of her person and the charms of her mind. A mutual attachment was formed between us, which, at the end of a little more than a year, was consecrated by marriage. All the happiness I have known in her beloved society, all the many and exquisite enjoyments which my dear children have afforded me, even my extraordinary success in my profession, the labours of which, if my life had not been so cheered and exhilarated, I never could have undergone,—all are to be traced to this trivial cause.

Our last visit was to my old and most valuable friend Jeremy Bentham, at Ford Abbey, in the neighbourhood of Chard ; a house which he rents, and which once belonged to Prideaux, the *Ford Abbey.* *Bentham.* Attorney-General of the Commonwealth. I was not a little surprised to find in what a palace my friend was lodged. The grandeur and stateliness of the buildings form as strange a contrast to his philosophy, as the number and spaciousness of the apartments, the hall, the chapel, the corridors, and the cloisters, do to the modesty and scantiness of his domestic establishment. We found him passing his time, as he has always been passing it since I have known him, which is now more than thirty years, closely applying himself for six or eight hours a day in writing upon laws and legislation, and in composing his Civil and Criminal Codes ; and spending the

remaining hours of every day in reading, or taking exercise by way of fitting himself for his labours, or, to use his own strangely-invented phraseology, taking his antejentacular and post-prandial walks, to prepare himself for his task of codification. There is something burlesque enough in this language; but it is impossible to know Bentham, and to have witnessed his benevolence, his disinterestedness, and the zeal with which he has devoted his whole life to the service of his fellow-creatures, without admiring and revering him.¹

¹ The following letter from Sir S. Romilly was written from Tanhurst on October 2, 1817.—ED.

“ Dear Dumont,

“ Your letter of the 11th September found me, not as you supposed it would, at this place, surrounded by my children, and in the daily contemplation of that beautiful country which is here spread out before us, but rambling about upon a little excursion. We were induced to make it, not to search for greater happiness than we were enjoying at home (for that we did not hope for), but to satisfy some promises we had made to visit some of our friends. We are now, however, returned, and I have the prospect of enjoying for three weeks or a month this earthly paradise (for such it is to me), before my usual labours recommence. One of our visits was to Bowood,—a place which I always see with delight, not only on account of the kindness and excellent qualities of its present owners, but of the many pleasing recollections of past times with which it is in my mind always associated. You must well know, my dear Dumont, how great a part you must have had in those recollections. The days we have passed there, and the delightful walks we have taken together, can never be effaced from the memory of either of us; but, above all, it is because I there first saw my dearest Anne that I never see or think of Bowood but as of the cause of all the real happiness that I have enjoyed in life. Another of our visits was to Ford Abbey. I had heard of it only as of a place that had fallen into decay, and whose gloomy appearance had produced such an effect upon the imaginations of the servants, that they never ventured into some of the apartments, from terror of spirits, with which they supposed them to be haunted. I was much surprised, therefore, by the cheerfulness, and still more by the magnificence, of the house—a palace I should rather call it, for it is much more princely than many mansions which pass by that name. The front of it extends no less than 250 feet. To the remains of the monastery, which are very considerable, and are of Gothic architecture, have been added, about the time of Edward VI. or Queen Elizabeth, a great pile of building, broken into different parts, and very richly

30th. We returned to Tanhurst.

From the 16th to the 25th of *October* inclusive a special commission sat at Derby for the trial of the persons concerned in the outrages committed in that county in June last. Four men were separately tried and convicted of high treason. After

*Trials for
high treason
at Derby.*

ornamented, which have a most striking and beautiful effect; and the pleasure-grounds are, rendered as gay as a great profusion of flowers can make them. The rooms are spacious, and some of them splendidly furnished and enriched with tapestry, which is some of the best that I have ever seen in England. In the midst of all this luxury, we found Bentham leading his usual life,—taking what he calls his ante-jentacular and post-prandial walks regularly every day, and as regularly devoting six or seven hours to his labours of codification. The society we found and left with him were, Mill and his family, and a Mr. Place, an acquaintance which he has, I believe, made since you left us. Place had been with him about three weeks, and was to quit him a few days after us. He is a very extraordinary person: by trade he is a master tailor, and keeps a shop at Charing-cross. This situation—a humble one enough—has, however, been to him a great rise in life, for he began his career in the lowest condition. He is self-educated, has learned a great deal, has a very strong natural understanding, and possesses great influence in Westminster—such influence as almost to determine the elections for members of Parliament. I need hardly say that he is a great admirer and disciple of Bentham's. Bentham is extremely anxious to see you; and persuades himself not only that he should be of great use to you in assisting you to frame the Geneva Code, but that it is hardly possible that you can do without his assistance. On the subject of procedure, he says, and I think with truth, that it requires experience, which you cannot have had, to form proper rules; and he thinks that the English law, though bad as a system, is excellent as containing a great collection of facts and an immense store-house of materials for legislation. In short, he has quite set his heart upon seeing you here; and I am too much interested that you should come, not warmly to second his request. He and Mill wrote you a joint letter upon the subject, which he is extremely apprehensive has been lost. He is just about to publish a work which contains some excellent observations on the importance of substituting a written code in the place of an unwritten common law. It is entitled '*Papers relative to Codification and Public Instruction*,' and consists of letters written at different times upon the subject to the Emperor Alexander; to Madison, President of the United States; and to the People of America. The style is obscure, and many things said against England and its Government with great bitterness and asperity, probably as a means of paying

their conviction, nineteen others, who had before pleaded not guilty, withdrew that plea and pleaded guilty, it being understood that they would not be punished with death. There were twelve other persons against whom bills had been found; but the Crown declined producing any evidence against them, and they were consequently acquitted. Of the four men who had been tried and convicted, three (Brandreth, Turner, and Ludlam) were executed.

Nov. 2nd, Sun. I returned to town from Tanhurst.

6th. Princess Charlotte, the only child of the Regent, *Death of the Princess Charlotte.* was last night delivered of a dead child; and four hours after, at half-after two o'clock this morning, herself died.

11th. The death of the Princess is very generally felt, and acknowledged to be a great public calamity. Much was not known of her, but the little that was known was favourable to her character. Her domestic retirement, and the warm affection which seemed to unite her to the Prince, her husband, had greatly endeared her to the public. Whether there was much chance, if she had lived, of a Whig administration again being the government of this country, I do not know; but that there is no prospect now of such an event taking place in a long series of years cannot be doubted. This great change in the order of succession to the throne will, it is probable, have a very sensible effect upon the Opposition. In all likelihood it will both thin their ranks and relax their efforts. Upon me it will not have the slightest influence. As a desire of getting into office has never been among the motives which have governed my public conduct, I can, in the present state of affairs, and in the prospect of what is to come, only see stronger ground than I ever discerned before for persevering in that course which I have hitherto pursued.

court to the Americans, but which, as the book is to be published in London, are, I think, very injudicious.

“ You will have seen Miss Vernon, Miss Fox, Whishaw, and Lens, and they undoubtedly will have told you more news of your London friends than I can do. Ever, dear Dumont, most sincerely and affectionately yours.”

Dec. Sir John Egerton, one of the members for Chester, having, by a public advertisement, signified his intention not to offer himself as a candidate at the next election, in consequence of the dissatisfaction which he understood that his conduct, in voting for the suspension of the Habeas Corpus, had given his constituents, some of the inhabitants of Chester thought proper, without any communication with me, and without my being personally known to any individual there, to propose me as a proper person to represent the city in Parliament; and in a Chester newspaper of the 20th December, called the "Chester Guardian and Cambrian Intelligencer," appeared an advertisement in these words:—"The freemen of Chester are hereby informed that an invitation to Sir Samuel Romilly to become one of our representatives in Parliament will be ready for signature at ten o'clock on Saturday morning." Then follows the name of the place where the invitation lay, and a great many praises of me, and a statement that an early canvass for me would be undertaken.

Proposed invitation to me to represent Chester in Parliament.

22nd. I received a letter, dated Chester, the 20th, from Mr. Joseph Swanwick, describing himself as *Mr. Swanwick's letter.* chairman of the committee, and which, except as to what is complimentary to me, is as follows:—"You have probably noticed the conduct of this city on the late suspension acts, and the fact of Sir John Egerton's resignation in consequence of the acknowledged displeasure of his constituents for his conduct on that question. Sir John was seated after a very severe struggle with the Grosvenor interest, and it was generally imagined that the influence of that family would be again exerted in its full force to carry two members for Chester. But some of those who, while they admired his Lordship's political conduct, were still strongly attached to the independence of the city, have had a most satisfactory explanation with his Lordship upon the subject, and he has pledged himself not to oppose the introduction of a member of liberal principles, but, on the contrary, if he should appear to meet the approbation of the citizens, to give him his decided support. In these circumstances our eyes were naturally

directed towards yourself," &c. He then goes on to say that Sir John Egerton's friends had begun a brisk canvass in his favour, and that therefore they had had no choice but to announce my name, or to allow many votes to be engaged; that they wished to know my sentiments on the subject, and hoped that there did not exist any irremovable obstacle to my representing Chester in Parliament. I returned an answer in these words:—

“ Russell Square, Dec. 23, 1817.

“ Sir,—I received yesterday, but too late to answer it by return of post, the letter which you did me *My answer.* the honour to write on the 20th instant. I can hardly express to you how much I am gratified at finding my public conduct approved and applauded by the citizens of Chester. To represent so very respectable a body of constituents in Parliament, I should consider as one of the highest honours that could be conferred on me, and as the best reward I could receive for any endeavours that I may have used to serve the public; and yet that honour and that reward, highly as I should prize them, I shall find myself obliged most respectfully and reluctantly to decline, if, as I fear is the case, it cannot be obtained without offering myself as a candidate and soliciting the votes of the electors. I have the honour to be, Sir,” &c.

I afterwards received another letter from Mr. Swanwick in these words:—

“ Chester, Dec. 29, 1817.

“ Sir,—I am directed to acknowledge the receipt of *Mr. Swan- wick's second letter.* your very obliging communication of the 23rd instant, and to say how much we should have deemed ourselves honoured to have returned you member for Chester on strictly constitutional principles, and by constitutional means. We conceived that the foreground was perfectly clear; that all parties fully understood each other; and that the only opponent we had to contend with, was the ministerial interest in the city. In this it appears that we have been mistaken, and

that it is not impossible a second member of the Grosvenor family may be brought forward at the ensuing election. We cannot express to you, Sir, the chagrin and disappointment with which this turn of affairs has affected us, not only as it immediately interferes with our flattering prospect of connexion with yourself, but as it involves the character of our city for principle and consistency. We can assure you, that we have not acted upon light grounds: direct interviews with Lord Grosvenor, in the presence of his confidential agents, convinced both them and us, that the General was not to be brought forward, and that our nomination was perfectly agreeable to his Lordship; but, owing to unpleasant rumours, we again saw Lord Grosvenor on Saturday evening last, when it appeared by no means so certain that General Grosvenor would be withdrawn. Under these circumstances, with the detail of which we will not trouble you, we thought ourselves called upon to close our intercourse on this subject with his Lordship. We have cautiously abstained from implicating you in the transaction any further than as the object of our best hopes and most deliberate choice. We shall ourselves look closely to events, but cannot be guilty of the injustice of exciting expectation which we cannot fairly hope to realize, and which may prevent you from paying attention to applications from other quarters, where the esteem and admiration of your fellow-citizens may have fewer obstacles to contend with in showing themselves. With the most fervent wishes that health and vigour of mind may long enable you to serve and adorn our common country,

“I remain, Sir, your most obedient servant,

“JOSEPH SWANWICK,

“Chairman of the Committee.”

My answer to this letter was as follows:—

“Russell Square, Jan. 1, 1818.

“Sir,—My last letter will undoubtedly have apprized you that, though nothing would be more gratifying to me than to represent the city of *My answer.* Chester in Parliament, I had formed no sanguine ex-

pection that that honour would ever be conferred upon me. Your favour of the 29th of last month, therefore, has caused me no disappointment. For the very kind manner in which you have addressed me on this occasion, I beg, Sir, you would accept my best acknowledgments. I am proud of the good opinions of those citizens of Chester who were desirous that I should be their representative, and I shall be always most grateful for their good wishes. I have the honour to be," &c.

1818.

Jan. 8th. While I was on my visit to Bentham last autumn at Ford Abbey, he gave me a little work he had just printed, and to which he has affixed one of his quaint titles—"Papers relative to Codification and Public Instruction ; including Correspondences with the Russian Emperor, and divers constituted Authorities in the American United States." I amused myself, after my return to Tanhurst, with writing a paper on this work, which I have since given to Brougham, to insert in the Edinburgh Review, and it has accordingly appeared in the number which has just been published, and which is the Review for November last. My principal object in writing it was to draw the attention of the public to those evils which appear to me to be inseparable from an unwritten law, such as is the Common Law of England. I have spoken in it of Bentham with all the respect and admiration which I entertain of him, but I have thought myself bound not to disguise his faults. I shall be extremely concerned if what I have said should give him any offence.

Sir William Grant's resignation as Master of the Rolls. 23rd. Sir William Grant has resigned the office of Master of the Rolls, to the extreme regret of all those who practised in his court, and to the great misfortune of the public. His eminent qualities as a judge, his patience, his impartiality, his courtesy to the bar, his despatch, and the mas-

terly style in which his judgments were pronounced, would at any time have entitled him to the highest praise ; but his mode of administering justice appeared to the greater advantage, by the contrast they afforded to the tardy and most unsatisfactory proceedings both of the Chancellor and the Vice-Chancellor. Sir Thomas Plumer succeeds Grant at the Rolls, and Leach is to be Vice-Chancellor in the place of Sir Thomas Plumer. I had before intended to discontinue my attendance at the Rolls when the next session of Parliament commenced ; but if I had had no such previous intention, this change would have determined me. Plumer has great anxiety to do *Sir Thomas Plumer.*

every one, and most beneficially for the suitors ; but they are duties which he is wholly incapable of discharging. There is so general a sense of this in the profession, that, if Leach disposes of the business which will come before him with the expedition which is expected from him, very few causes will probably be hereafter set down at the Rolls. The number of causes entered there for hearing has been of late years unusually great ; so great, that, notwithstanding Sir William Grant's great despatch, he has left an arrear of more than 500 causes. Causes were set down there with a twofold object—that Sir William Grant might hear, and that Sir Thomas Plumer might not hear them. Leach, though with a bad judgment, *Sir John Leach.* and with little learning in his profession, will,

in the present state of the Court, be a very useful judge. He is very quick ; he has few doubts ; he will decide with great despatch ; and will not, like the two other judges of the Court, hesitate and delay his judgments in the plainest cases. I shall not be surprised if, in a few years, the contrast between Leach's despatch and the Chancellor's delay becomes so striking, that his Lordship will find it difficult to retain his office. That Leach will, by his extraordinary presumption, involve himself in some ridiculous difficulties, is not at all improbable. He dined a few days ago in a company of fourteen persons, all of the profession, and some the intimate friends of Sir William Grant. In the course of conversation, it was said, that that gentleman's

leisure might have been very usefully employed, if he had been a member of the House of Lords, in assisting the Chancellor in the hearing of appeals in that House ; upon which Leach said to one of Sir William Grant's friends, " If you will undertake that he will give that assistance to the Lord Chancellor, I will undertake that he shall be made a peer." This was repeated to me in the same words by three persons who were present at the dinner.

27th, Tu. Parliament met. Being fully convinced that the late suspension of the Habeas Corpus ^{Meeting of Parliament.} was a most unnecessary and mischievous measure, and that it will be a most dangerous precedent, I took this the first opportunity of the House of Commons meeting to call the attention of the House to what had passed during the recess ; to the acquittal of the prisoners who had been apprehended at Manchester, without Government even offering any evidence against them ; to the trial of M'Kinlay, in Scotland, who was also acquitted ; to the nature of the case proved in evidence upon the trials of Derby ; and to the three late extraordinary trials of Hone ; to show how little foundation there was for the exaggerated statements which had formerly been made, and how ill the suspension of the Habeas Corpus was adapted as a remedy for the evils which really did exist.

Lord Althorp intended to have given notice of a motion for the next day to repeal the Suspension Act, but Ministers themselves announced their intention to move for its repeal.

28th, Wed. Accordingly, Lord Sidmouth this day brought a Bill into the House of Lords for its repeal, which was read three times on the same day ; and on *Thursday, January 29th*, it was ^{The Act for the suspension of the Habeas Corpus repealed.} brought down to the Commons, and there read three times and passed. Ministers were desirous that there should be no discussion on it, and in that wish the Opposition, in my opinion not very wisely, acquiesced. I took occasion, however, to observe upon the conduct of Government, which had postponed the meeting of Parliament to so late a period, that it had been impossible to repeal the Act till after the time when the Ministers them-

selves admitted that it had ceased to be necessary. In truth, there had been no interruption of the public tranquillity since the month of June last ; a remarkable period, for it was in that month of June that the conduct of Government in employing spies and informers had been exposed and condemned in the House of Commons. From that time Government had ceased to employ such instruments ; and, from the time when they ceased to be employed, all the signs of disaffection which had manifested themselves in different parts of the country had ceased.

30th, *Fri.* I dined at Stephen's, at Knightsbridge, with Wilberforce, Brougham, Macaulay, Mackintosh, *West Indian* William Smith, and Garrison. The object of *Slavery*. our meeting was, to consider in what way the unhappy condition of the negroes in the West Indies can be most advantageously brought before Parliament, with a view to some legislative measure being adopted for their relief.

31st, *Sat.* The royal assent given to the Bill to repeal the Suspension Act.

Feb. 5th, Th. Papers relative to the state of the country have, by order of the Regent, been presented *Committee of Secrecy*. to both Houses of Parliament, sealed up ; and this day it was moved by Lord Castlereagh, that they should be referred to a secret committee to be named by ballot. I joined with others in opposing this.¹ The speech from the throne, and the recent repeal of the Suspension Act, proved that no legislative measure was meant to be founded on the report of the proposed Committee, except an Act of Indemnity to the Ministers ; and, for such an inquiry, nothing could be more improper than that the Ministers should themselves name the Committee, which they would do if it was to be appointed by ballot. I took this occasion to enlarge upon the consequences which may hereafter be apprehended from such a precedent as that which the late suspension of the Habeas Corpus has established.

¹ On the question, that the Committee be chosen by the way of ballot, the numbers were,—ayes, 102 ; noes, 29 ; majority in favour of Ministers, 73.—ED.

10th, *Tu.* Lord Archibald Hamilton moved, in the *Law officers in Scotland.* House of Commons, for the production of the record of Andrew M'Kinlay, before the Court of Justiciary in Scotland, for the purpose of bringing under the view of the House the conduct of the law officers of the Crown, in grossly tampering with a witness of the name of Campbell, produced for the Crown, and whose evidence was, on that ground, rejected by the Court. I supported the motion, and spoke in answer to Lord Castlereagh and the Lord Advocate.

11th, *Wed.* Mr. Fazakerly moved, "That it be an instruction to the Secret Committee to inquire *Spies.* and report whether any steps had been taken to detect and punish the spies employed by Ministers, who by their conduct had encouraged the evils they were only to detect." I spoke in support of the motion.

17th, *Tu.* I took part in the debate on Lord Folkstone's motion, to refer the petitions of persons complaining of the hardships they had suffered by imprisonment during the late suspension of the Habeas Corpus, to a committee.

18th, *Wed.* I was examined as a witness before the *Bankrupt laws.* Committee of the House of Commons appointed to inquire into the Bankrupt Laws; and I stated very fully my notions of the mischievous tendency of many of the provisions in the present laws relating to bankruptcy. My evidence will, as matter of course, be printed.*

19th, *Th.* The Bill which Mr. Curwen brought last session into the House of Commons, to amend *Curwen's Bill to amend the law of tithes.* the laws relating to tithes,† was brought in so late in the session, that it was impossible to carry it through all its regular stages; it was therefore merely printed and read a second time; and he, this day, again moved for leave to bring in his Bill. Sir William

* It has since been printed at length in the Report of the Committee.

† *Vide ante*, p. 461.

¹ This and the two preceding motions were lost by large majorities.—ED.

Scott said that he should not oppose its being brought in ; but he made a speech, which could have no other object than to raise the strongest prejudice that he could against it. In the most solemn manner he called upon the House to consider the danger of making any alteration in the laws respecting tithes ; to reflect that the Church was not represented among them ; and to recollect what dangerous and mischievous notions some persons were desirous of propagating with respect to this species of property ; and he read a number of passages from different petitions, presented in the last session of Parliament, complaining of tithes as a great grievance. On what he knew to be the real objects of the Bill, he did not say a syllable. I endeavoured to remove the false and unjust impression which his speech was calculated to make, and stated what were the evils which the Bill was intended to remedy. I said that I did not approve of all the provisions of the Bill, if it was to be the same as that which was brought in in the last session ; but that, on the whole, the Bill would effect a most important improvement in the law. Peel, the other Member for the University of Oxford, and Smyth, one of the Members for the University of Cambridge, reserved to themselves a right to object to the Bill when it should be brought in.

25th, *Wed.* Leave was given me by the House of Commons to bring in a Bill to repeal the Act of King William, which punishes shoplifting with death. In the course of the observations which I made* on this occasion, I noticed the bad effects produced by frequent executions, particularly in the case of forgery.¹ For that crime the sentence was seldom remitted ; and yet, under this excessive severity, the crime was rapidly increasing. Though the Crown seldom pardoned, the Bank had power, under a recent Act of Par-

* The *Morning Chronicle* contained a tolerably accurate account of this speech.

¹ The punishment of death for forgery has since been abolished by 11 Geo. IV. and 1 Will. IV. c. 66 ; and 7 Will. IV. and 1 Vict. c. 84.—ED.

liament (41 Geo. III. c. 39), to prosecute what was really a capital crime (the uttering bank-notes, knowing them to be forged) in such a manner as to subject the offender only to transportation. The same uncertainty of punishment therefore prevailed in this as in other crimes, and the many lives that were sacrificed were taken away without any benefit to the public. I was the rather induced to bring this matter to the notice of the House, at the present moment, because a considerable impression has been made upon men's minds by some late executions. A week ago two women were hanged in London for forgery; and on this day two boys were to have been executed for the same crime, and were saved by a discovery, made only two days ago, that they had been employed to commit the offence by a villain, who afterwards gave information against them, and caused them to be apprehended.

27th, Fri. Dined at Mr. John Smith's (the Member for

Mrs. Fry. Nottingham). Among the company I met there was Mrs. Fry,* who has now for about a year most generously devoted herself to the care and improvement of the female prisoners in Newgate. She is the wife of a rich banker in the city; and it is from pure motives of humanity and religion that she has been induced to make such a sacrifice of her time and her comforts. By the accounts of those who knew the prison in its former state, the reforms she has effected are the most important and complete. I learned from her some curious

Bad effects of capital punishments for slight offences. facts respecting the effects produced by capital punishments. Her observations are the more valuable, as she has had such opportunities of seeing and conversing with the prisoners. She

told me that there prevails among them a very strong and general sense of the great injustice of punishing mere thefts and forgeries in the same manner as murders: that it is frequently said by them, that the crimes of which they have been guilty are nothing, when compared with the crimes of Government towards themselves: that they

* Wilberforce, and my excellent friend the benevolent William Allen, the Quaker, were also of the party.

have only been thieves, but that their governors are murderers. There is an opinion, too, very prevalent among them, that those who suffer under such unjust and cruel sentences are sure of their salvation: their sufferings they have had in this life, and they will be rewarded in that which is to come. All the crimes they have committed they say are more than expiated by the cruel wrongs they are made to endure. She spoke of the docility she had found, and the gratitude she had experienced from the female prisoners, though they were the most profligate and abandoned of their sex. Kind treatment and regulations, though of restraint, yet obviously framed for their benefit, seem to have been alike new to them; and to have called forth, even in the most depraved, grateful and generous feelings.

March 11th, Wed. In the House of Commons, on the question whether the House should go into a *The Indemnity Bill.* committee on the Bill to indemnify Ministers and magistrates for their late proceedings, I opposed the Bill in a speech of considerable length.¹ It was the only opportunity I could properly avail myself of to oppose it. It was at a most inconvenient time to myself that I had to do it, and I spoke under very great anxiety of mind; my dear Anne being extremely ill.

16th, Mon. On the motion for the second reading of the Bill for the amendment of the law relating to tithes, which has been drawn by Baron *Mr. Curwen's Tithe Bill.* Wood, and has been brought into the House of Commons by Mr. Curwen, I spoke in support of the Bill. I expressed my approbation of the general objects of the Bill; though I stated that I objected to the clause respecting the trying of issues upon moduses, and that I thought there were other clauses which might require alteration. The only speakers against the Bill were Sir William Scott and Mr. Peel, the two Members for the University of Oxford, and Mr. Smyth, one of the Members for the University of Cambridge, and Mr. Wetherell. The Attorney and

¹ The question was carried by a majority of 173; the numbers being, for it 238, against it 65.—ED.

Solicitor General, however, and all the ministerial members, voted against the Bill, and, accordingly, it was lost. It was a very thin House, there being only 15 for the Bill, and 40 odd¹ against it. I did not stay to vote, being anxious to get home on account of the illness which my dearest Anne still continues to labour under.

19th, *Th.* My Bill to abolish the punishment of death *The Shoplift-ing Act.* for shoplifting went through the Committee. Mr. Peel, the Irish Secretary, has undertaken, if the Bill should pass, to bring in a Bill to repeal the Irish Acts of Queen Anne and George II. to the same effect; and he this day brought in a Bill to repeal the Irish Act which punishes with death the stealing goods to the amount of five shillings privily from the person.

22nd, *Easter Sunday.* I am spending these holidays in town; my dear Anne continuing too ill to *Easter.* allow of her going to Tanhurst, though she is, I hope, recovering.

23rd, *Mon.* A letter from my good friend Dumont, *Dumont's letter.* from Geneva, of the 12th of this month, reached me to-day, and brought me the good news of his intending to come to us in May. He tells me that my article in the *Edinburgh Review*, upon Bentham, has been of some advantage to him, and, what he considers as much more important, to the project of a new code. "Bentham," he says, "ne sera jamais mieux loué, mais la critique blesse plus que les éloges ne flattent, et surtout quand on est au point de prendre les défauts de style pour des qualités. Pour ce qui me concerne*, je n'y trouve à redire qu'une prévention trop favorable, mais il ne faut plus parler de sacrifice d'amour propre, car, d'être ainsi loué c'est avoir fait ce me semble un gain usuraire. Heureusement la tête ne m'en a pas tournée; et puis on ne me gâte pas à Genève. Il est pourtant vrai que l'article, qui a été beaucoup lu ici et dont on a beaucoup parlé, m'a été très-avantageux, et qu'il est venu le plus à propos du monde. On s'étoit gendarmé contre moi le plus injustement pos-

* *Edinburgh Review*, vol. xxix. p. 237.

¹ The number was 44.—ED.

sible ; j'en avais pris et montré de l'humeur et avec raison ; mais un ou deux discours m'ont rétabli dans toute la faveur de l'assemblée, et ont même été accueillis avec exagération. Tout cela ne signifie rien. L'essentiel est notre Code. Le mot flatteur sur Genève* a eu son effet. *Possunt qui posse videntur.* Je suis toutefois bien éloigné de compter sur la réussite de notre travail," &c.

25th, *Wed.* Roget took me with him to Deptford to see the vessels which are about to sail to the North Pole, and in search of the north-west passage. We were on board the Dorothea, Captain Buchan, destined to the first, and the Isabella to the latter, of these expeditions. We had much conversation with Captain Buchan, and with Lieutenant Franklin, who commands the Trent.

April 5th, Su. Bentham wrote, some little time ago, and printed a work, which he has entitled "Church-of-Englandism and its Catechism examined." He allowed me to see it after it was printed. The work is written against the National School Society, whose aim is to proscribe all education of the poor, except that in which the religion of the Church of England forms an essential part ; and the work, therefore, undertakes to prove, that Church-of-Englandism is wholly different from true Christianity, as it is to be learned from the gospel. The subject, however, is treated with so much levity and irreverence that it cannot fail to shock all persons who have any sense of religion. I had prevailed on Bentham till now not to publish it. He desired me to strike out the passages I thought most likely to give offence ; but they were so numerous that I was obliged to decline the task ; and I understood that he had given up all thoughts of publishing the work. To my astonishment, however, I learned yesterday that it had been advertised the day before with his name, and had been publicly sold. I have made a point of seeing him to-day, and, by the strong representation I have made to him of the extreme danger of his being prosecuted and convicted of a libel, I have prevailed on him to promise im

Bentham's
"Church-of-
Englandism
and its Cate-
chism es-
amined."

mediately to suspend, if not to stop altogether, any further sale of the book.

11th, *Sat.* My dear Anne set out for Brighton for the recovery of her health.

14th, *Tu.* On the third reading of the Bill for abolishing *The Shoplifting Act.* the punishment of death for the crime of privately stealing in shops, the Attorney-General *Its preamble.* objected to the preamble, as stating what he was pleased to call mere abstract principles, which, if once adopted by the legislature, might lead to great alterations in the law.¹ The House appeared, however, on some little discussion which took place, so decidedly against him, that he did not venture to call for a division, and the Bill passed without the amendment he had suggested. The preamble is in the words of a preamble to a former Bill which I brought in, and which, on the objections of Sir Thomas Plumer, I was then obliged to give up.*

22nd, *Wed.* By a motion for papers which I made this *Condition of the slaves in the West Indies.* day in the House of Commons, I brought to the notice of the House some occurrences which have lately taken place in the islands of Dominica and Nevis. My principal object was to revive, if I could, some portion of that lively interest which the public, a few years ago, took in the condition of the slaves in the West Indies. The cause of that unhappy class of mankind has lately lost ground in England very considerably. Various circumstances have conspired to bring this about. It is now about a year and a half ago that the African Institution published (certainly with great levity) a story which had been communicated to them of the cruel treatment of a slave in Antigua, and of the grand jury having thrown out a Bill of indictment which was preferred

* Vide *suprà*, p. 89.

¹ The criminal law has undergone considerable changes from that time down to the first year of the present reign. By statutes 7 Will. IV. and 1 Vict. c. 84, 5, 6, 7, 8, 9, and 91, the punishment of death is abolished in all cases of crimes not accompanied by personal violence, or which do not, by their immediate consequences, endanger life.—ED.

against the author of the cruelty. For this story there appeared to be no foundation; and a prosecution having been instituted against the printer of the society, he was convicted, and a fine was imposed on him. From this single instance, the public were earnestly exhorted to believe that all the accounts which had been published of West Indian severities were fabrications and calumnies. The attempt, in the last year, to carry the Registry Bill had roused a very general and a very vehement opposition in the West Indian interest. The very mention of such a measure, it was pretended, had excited a spirit of revolt among the negroes; and the most terrible consequences were predicted if the Bill should be persevered in. To these real or affected alarms the unhappy disturbances which broke out in Barbadoes, though they were not in any manner connected with this subject, appeared to give countenance. In the mean time, no pains have been spared to raise a cry against Mr. Wilberforce and the other friends of the slaves in this country. Numerous pamphlets have been published by Marryatt and other agents of the islands. Most of the newspapers have been gained over by them; and the tendency of the paragraphs with which these are continually supplied, is to excite for the poor defamed planters, overseers, and managers of West India estates, that compassion which used once to be felt for the negroes. It has become extremely difficult to counteract the effects of this powerful combination. By means of the press it is hardly possible; the Judges of the King's Bench having, when they passed sentence on Hatchard (the printer of the African Institution), declared that it was a libel to say of a West Indian grand jury that they were disposed to refuse justice to an injured individual. No man can venture to write in defence of the negroes without exposing himself to a prosecution; for all the severities and cruelties to which they are subjected are to be traced to the injustice of their legislatures and tribunals. It seems, therefore, to be only in Parliament that, in the present circumstances, facts respecting the conduct of the courts of justice in the West Indies, however well authenticated, can with any security be stated. The transactions

which I took this opportunity of bringing before the House are partly connected with those which I stated, and on which I moved for papers late in the last session. After the *Misconduct of the grand jury at Dominica.* grand jury of Dominica had not only thrown out the Bills that had been preferred against masters for cruelty towards their slaves, but had presented the preferring such Bills to them as a nuisance, the governor determined to try whether justice could not be obtained for injured slaves without the intervention of a grand jury. Accordingly, by his direction, *Misconduct of 'petty juries.* the Attorney-General of the island filed three several informations against persons for making their slaves work in chains and with iron collars round their necks, against the positive terms of an Act of Assembly. The facts were clearly proved, but all the defendants were acquitted; and the grand jury again presented, as a matter dangerous to the community, the interposition of the executive government between master and slave. The court, however, refused to receive this presentment, and it was withdrawn. In addition to this state of the administration of justice, I brought under the *Supposed state of the law in Dominica with respect to the galley gang.* view of the House what is represented to be, and is acted upon as, the law of the island. At Dominica, as well as in some other of the West India Islands, there is what is called a public chain, in which slaves convicted of crimes are sentenced to labour. To this public chain masters assume a right of sending their slaves for any private offence of which they may think them guilty. The governor (Mr. Maxwell) was desirous of remitting the punishment of some of those slaves; but he was told that it was not within his authority. In this difficulty he consulted Mr. Glanville, the Attorney-General of the island; but that gentleman gave it as his opinion that, although the governor might by the royal prerogative pardon slaves who had been judicially condemned to this punishment, yet he had no power whatever to release any slave who, without any public investigation or even any imputed crime, had been sentenced by the sole will of his master to this most severe doom. Such unhappy creatures must, according

to this Attorney-General's opinion, endure the punishment (and it is one of excessive severity) for their whole lives, unless it shall be the pleasure of their masters to remit it. I adverted, too, to the law of Dominica, which imposes restrictions and a very heavy tax on the manumission of slaves ; and to another law which declares, that no person of colour who lands in the island shall be considered as free unless he produces a certificate of his freedom, and pays a duty. The colonists are jealous of the interposition of the British legislature in any of the internal affairs of their islands. They pretend that such an interposition is a violation of the most sacred principles of our Constitution ; and we here find the men who so loudly profess that they have imbibed the spirit of the British Constitution, inverting one of its most sacred principles. A slave no sooner sets his foot on the shores of Great Britain than he becomes free ; while in Dominica, when a free negro lands upon their coast, he instantly sinks into a slave, and it is only by money that he can redeem himself from that degraded condition. I discussed at some length this pretension of the West Indians to the exclusive right of making laws for their own government and for the regulations of their slaves ; and showed how contrary it was to the practice of past times, and how inconsistent with the state and condition of the great mass of the population of the islands. It has never, indeed, been without indignation that I have heard these boasted claims of independence, and this vindication of political rights, on the part of the West Indians ; some of whom even pretend that they have a much keener sense and a more ardent love of liberty than mere Englishmen can pretend to. In this spirit *West Indian spirit of liberty.* I have seen cited in some of their pamphlets a passage of Burke's, in which he says that "Masters of slaves are by far the most proud and jealous of their freedom. Freedom," he adds, "is to them not only an enjoyment, but a kind of rank and privilege. Not seeing there that freedom, as in countries where it is a common blessing, and as broad and general as the air, may be united with much abject toil, with great misery, with all the exterior

of servitude, liberty looks among them like something that is more noble and liberal." On such authority, these West Indian declaimers arrogate to themselves a love of liberty which is more enthusiastic, and as it were of a sublimer nature than can animate us. They do not perceive that as far as the spirit of West Indian differs from that of an English love of liberty, it is by having a mixture of some of the worst of human passions; pride, disdain, a love of dominion, a superiority not founded on merit and on a successful emulation, but on the base and abject condition of all around us. A genuine love of liberty is not a little selfish feeling confined to ourselves and to the contracted circle of our privileged associates; it expands itself to all without distinction who are under the protection of the same state. It is as indignant at that injustice which we see done to others, as at that which we feel pressing upon ourselves. It delights in the security of the meanest peasant in the land; and even rejoices that it is unable to exercise, as it is secure from suffering, an unjust dominion: while that too ardent, that impetuous love of liberty, is, in truth, an excess of self-love, a desire of authority, an impatience of control, a disdain of subordination.

" Licence they mean when they cry liberty;
For who loves that, must first be wise and good;
But from that mark how far they rove we see."

I took occasion, in the course of what I said in the House on the motion, to mention what has lately happened at Nevis, in the case of one Huggins, a man whose character for cruelty towards his slaves was some years ago made notorious to the House and to the public. He was lately tried at Nevis for cruel treatment of certain slaves who were under his charge, as attorney to an absent proprietor. He had caused 100 lashes, with the usual instrument of punishment, a cartwhip, to be inflicted on two very young lads; and he had been barbarous enough to inflict twenty lashes on the sister and a female cousin of the poor youths, because they had shed tears at witnessing their tortures. The case was clearly proved on the trial,

Cruel treatment of slaves by Huggins at Nevis.

no witness was called for the defendant, and yet he was acquitted. I was very sure of the accuracy of the facts I stated; those relating to Dominica being stated in letters from the governor, which were put into my hands, and those which respected Nevis being communicated to me by one of the counsel for the prosecution.

30th, Th. Mr. Sturges Bourne moved for, and obtained leave to bring a Bill into Parliament to alter the Poor Laws, as far as they relate to *Poor Laws. Settlements.* settlements; and to declare that a three years' residence shall alone give a settlement. I expressed in the House my approbation of this measure. Nothing can be more impolitic, and in many cases more cruel, than the present law; according to which, a man may have resided and exercised his industry for twenty years in a parish without gaining a settlement, and may, at the pleasure of the parish officers, the moment he stands in need of a little temporary relief, be removable, with his wife and all his children, perhaps to some remote part of the kingdom, amongst strangers, where he can find no occupation, and where he, with his family, may be destined to become the inhabitants of a workhouse.

May 4th, Mon. On Mr. Bennet's Bill to abolish the parliamentary rewards which are given on *Rewards on conviction of certain offenders.* I spoke, and I opposed an amendment of the Attorney-General.

5th, Tu. Lord Castlereagh moved for leave to bring in a Bill to continue the Alien Act for two years longer. The members who generally are in opposition to the Ministry were disposed to postpone making their objections to this measure to some future stage of it. Thinking, however, that it ought to be opposed in every stage, I shortly stated my objections to it, and I divided the House.¹

10th, *Whitsunday.* I set out for Brighton with

¹ The numbers were,—for the first reading of the Bill, 55; against it, 18; majority, 37.—ED.

my three youngest boys, whom I sent for from school for the purpose. John and Edward had gone before, so that I had all my children with me at Brighthelmstone except William. I found my dearest Anne very much recovered, and I spent my short vacation most happily. It was much too short; for I was obliged to return to attend a claim of peerage in the House of Lords on Thursday.

16th, Sat. My dear Anne returned.

18th, Mon. Mr. George Bankes has brought a Bill into Parliament to prohibit, under certain penalties, the buying of game. To-day, on the second reading of it, several members, who are enemies to the system of the present Game Laws, opposed it. I am myself very much an enemy to those laws; but, because I am an enemy to them, I approve, and spoke in support, of Mr. Bankes's Bill. The present system is a most pernicious one, and is productive of great misery and of enormous crimes. It consists of a very rigorous body of criminal law, but of criminal law which has so little the sanction of public opinion, that no man is thought the worse of, by persons in his own rank of life, for incurring its penalties. The imprisonment, however, which detected poachers are made to undergo, the idle and dissolute habits of life they contract, and the desperate and ferocious spirit which the very severities they are exposed to excite in them, form by degrees a large body of men ready for the commission of the most enormous crimes; and though the Game Laws cannot be considered as the principal, yet they certainly form one, and not the most inconsiderable, of the various causes of that terrible increase of crimes which we have lately witnessed.* What renders this system the more mischievous is, in my opinion, the very circumstance that, while the selling of game is punished as a crime, the buying it is

* In 1806, the number of persons committed for trial in England and Wales was 4346; from that time the number has gone on increasing almost every year; and in the last year (1817) it was 13,932.

allowed to pass with complete impunity. If there were no buyers there could be no sellers. It is the buyers of game who encourage and make poachers, though among these buyers are often the most rigid enforcers of the Game Laws.¹

19th, *Tu.* On a motion of Sir Robert Heron's to repeal the Septennial Act, and restore triennial Parliaments, I spoke shortly in support of the motion.² Proposed repeal of the Septennial Act.

On the same day, in a debate which took place upon going into Committee on the Alien Bill, I opposed the Bill.³ Sergeant Copley,⁴ who, after having long expressed sentiments hostile to the Ministry, has lately come into Parliament for a Government borough, answered me; and Sir James Mackintosh, in an admirable speech, answered Sergeant Copley.

20th, *Wed.* On my motion, a select Committee was appointed to consider the papers lately laid before the House of Commons relative to the treatment of slaves in the island of Nevis,—the papers which I had moved for on the 22nd of last month. Committee on the cruel treatment of slaves in Nevis.

21st, *Th.* I very warmly supported in the House of Commons a motion of Mr. Bennet's, for referring to a committee the petitions of two booksellers at Warrington. The cases stated by them (the material facts of which were not denied) appeared to me to be the more important, as they afforded a practical illustration of the mischiefs which were to be expected from Lord Sidmouth's circular letter of the last year to the magistrates on the subject of libels. These two men had been carried before a justice of the peace, charged with pub-

Persons charged with libels put in irons and kept to hard labour in the House of Correction before trial.

¹ In 1831 the sale of game was made legal. See 1 and 2 Will. IV. c. 32.—ED.

² The motion was lost by a majority of 75,—the numbers being, ayes, 42; noes, 117.—ED.

³ The numbers on the division were,—ayes, 99; noes, 32; majority in favour of going into committee, 67.—ED.

⁴ Now Lord Lyndhurst.—ED.

lishing libels; and, not being able to find bail, had been sent in irons to the House of Correction, and there kept to hard labour till the quarter sessions, at which they would have been tried, if the Attorney-General had not by certiorari removed the indictments into the King's Bench.

Their houses searched for papers. Their houses too had been searched, and their papers and books seized and carried away. A proceeding so outrageous and so illegal would, a few years ago, have been thought incredible. The House, however, on such a case being brought before it, refused, by a considerable majority,¹ even to institute any inquiry.

Amendments to the Alien Bill moved and rejected. 22nd, Fri. On the third reading of the Alien Bill, I moved, as an amendment, that the Bill should not extend to any alien who was resident in this country on the 1st of January, 1814, and had ever since continued to reside here. This amendment, as well as one moved by another member, that it should not extend to the wives of natural-born subjects, was rejected by the House.

Case of a slave murdered in St. Kitt's by a clergyman of the name of Henry Rawlins. June 3rd, Wed. I brought under the notice of the House of Commons another case of horrible barbarity in one of the West India Islands. A negro slave in St. Christopher's had run away. He was brought back to the plantation he belonged to, flogged, and made to pass the night chained to another runaway slave who had been punished like himself. The next morning he was brought out into the field with the rest of the gang, and was compelled to work chained as he was to his companion. After some time, the wretched creature, exhausted with hunger, fatigue, and pain, sunk to the ground. The manager, a clergyman of the name of Henry Rawlins, commanded two drivers to flog him till he rose and resumed his labours. From the cruelties thus inflicted on him, he died in a few hours, being still chained to his fellow slave. He was buried the same day without any coroner having sat upon his body, although, by a law of the island, an in-

¹ A majority of 73 to 17.—ED.

quisition is to be held on every slave who dies without having been previously seen by a physician. The affair, however, having made some noise in the island, the body was dug up, and a coroner's inquest was held upon it. The body bore every mark of violence upon it, and the teeth of the unhappy creature appeared to have been recently broken: but the jury found by their *Misconduct of the coroner's jury.* verdict, that he died by the visitation of God.

Still, however, the matter had become so much the subject of conversation, that it was found necessary to indict one of the drivers for murder. In the course of his trial, it had been at first sworn by the slave to whom the deceased had been chained, that Rawlins was not present when the punishment was inflicted; though it afterwards came out in evidence, not only that Rawlins was present, but that he actually took the whip out of the driver's hand and flogged the slaves himself. On this *Misconduct of the petty jury and of the Court.* evidence the driver was acquitted, and Rawlins himself was brought to trial. The facts were proved, and yet Rawlins was acquitted of the murder, but convicted of manslaughter. Thus convicted, the sentence on him was only that he should pay a fine of 200*l.*, and be imprisoned for three months. In bringing this matter to the view of the public, I had (and so I stated to the House) principally in view to show the manner in which justice was administered in some of the West India Islands, in cases in which slaves were concerned. A more complete picture of this could hardly be exhibited than what appeared in the gross misconduct of the coroner's jury, who had endeavoured to stifle all inquiry, by finding, upon their oaths and against the evidence of their senses, that a man so cruelly murdered had died a natural death; in the verdict of the petty jury, who had found such an atrocious murder to be manslaughter; and in the sentence of the court, who, for so aggravated a manslaughter, if manslaughter it was, had passed the mild sentence of a three months' imprisonment and a fine of only 200*l.* My motion, which was agreed to, was only for copies of the depositions taken before the coroner; the

minutes of the evidence upon the two trials having been before, at my instance, laid before the House and printed.

On the same day, on a question of agreeing to the *Court of Chancery is competent to afford redress in cases of abused charities.* amendments made by the Lords to Brougham's Bill for appointing commissioners to inquire into abuses of charitable foundations,—much having been said respecting the remedy for such abuses, which already existed in the Court of Chancery, and Lord Castlereagh having called upon me to vindicate the Court from the imputations which he said Brougham had cast upon it,—I stated that an effectual remedy for such abuses certainly could not be found in the Court of Chancery; that the proceedings were so slow and so expensive in the cases of informations, that it required an extraordinary degree of public spirit, and a determination to make great sacrifices of money and of personal labour and convenience, for any person to become a relator in such a proceeding; and that the summary remedy, which had been provided by the Bill I brought in a few years ago, was limited to cases where the charity lands had not got into the hands of third persons, but remained with the trustees.

The law respecting usury is productive of great injustice, as it applies to promissory notes and bills of exchange. Such securities, as well as all others, if given for an usurious consideration, or upon an usurious contract, are, by the statute of Queen Anne, made absolutely void. The nature, however, of negotiable securities (which are assignable by indorsement, and where an indorsee, who discounts them, can have no means of ascertaining what the original contract was upon which they were given) makes this, with respect to these commercial transactions, a most unjust law. To remedy this evil, I lately brought into the House of Commons a Bill to declare that no negotiable security, given after the passing of the Act, should be void in the hands of a *bond fide* indorsee, who, at the time of discounting it, had not notice that it was usurious. The Bill passed the *Bill to afford relief to the bona fide holders of negotiable securities without notice that they were given for an usurious consideration.*

Commons without opposition, and will pass the Lords ; for the Chancellor, to whom I mentioned the subject before I brought the Bill in, approves of it. He has, indeed, endeavoured to render the Bill more efficacious than it appeared to him that it would be in its original form, by adding in the House of Lords the word "actual" before the word "notice," in order to prevent any question that might arise as to an indorsee, who takes a Bill after it has become due, having constructive or implied notice. I have been asked why I did not extend this Bill to negotiable securities given for gaming debts. The injustice is, indeed, apparently as great in one case as in the other ; but, in the experience which I have had, I have scarcely, I think, met with an instance of a note given for a gaming debt being really negotiated to a *bond fide* indorsee. The holders of such bills are almost always acting in collusion with the original payee.

5th, *Fri.* After the Alien Bill had passed the House of Commons, the Ministers discovered that, by an act of the Scottish Parliament, passed in 1695, all foreigners who acquired stock in the Bank of Scotland to a certain amount, became naturalized subjects, and that lately a good many foreigners had purchased such stock. They therefore, in the House of Lords, added a clause to the Bill, declaring that no foreigner who had, since the 28th of April last, or who should in future become a proprietor of such stock, should by means thereof be naturalized. This amendment of the Lords was taken to-day into consideration in the House of Commons. I opposed it, as being unjust towards the persons who, on the faith of a Scottish Act of Parliament, confirmed by five different British statutes since the Union, had invested their money in the purchase of stock, and were to be thus violently deprived of the advantages which had induced them to make the purchase ; as being an *ex post facto* law, and therefore repugnant to all true principles of legislation, and as being contrary to all parliamentary usage, and, in substance, a tacking by the Lords of a new and distinct Bill to that which the Commons had sent up to

*Clause added
in the House
of Lords to
the Alien Bill,
taking away
the right of
naturalization
from persons
who had be-
come recent
purchasers of
Scotch Bank
Stock.*

them. To a Bill to *continue* an existing law, the Lords add, in the form of a clause, a Bill to *repeal* an existing law; and, by merely adding it as a clause, they allow of only one question being put upon it in the Commons, and deprive them of the several opportunities which they would have had of considering it in its different stages if it had come down to them in the form of a Bill. In addition to these objections, I observed, that the amendment was one which the Commons could not agree to without giving up one of their most important privileges—that of originating Money Bills. The effect of the amendment is, from the time of passing it, to subject all the individuals, whom it deprives of the naturalization they have acquired, to the alien duties; and, if any of them have purchased estates, to have their lands forfeited to the Crown, as the property of aliens. As it was understood that Parliament was to be prorogued the next day, and immediately afterwards dissolved, I took occasion to remind the House, in this the last hour as it were of its existence, of the account which it had to render to the nation of the important trust committed to it. After passing shortly in review the most important acts of the Parliament,—the Habeas Corpus twice suspended; the Act of Indemnity; the disregarded and despised complaints of those who have suffered under the exercise of ministerial authority; the sanction given to Lord Sidmouth's celebrated circular letter, to the severities exercised over men who were only accused of publishing political libels, and to the systematic employment by Government of spies and informers; the Alien Bill, by which, even in time of peace, we had shut our ports against foreigners flying from persecution in their own country, and seeking with us an asylum; and, to crown all, this last violation of all principles of law and of the Constitution, this great act of signal injustice. I concluded by expressing my fervent hope that England would never see another Parliament as regardless of the liberties of the people, and of the best interests of mankind, as the present.¹

¹ The following is the report of the concluding passages of the

The objection founded on the privilege of the Commons to originate all Money Bills, appeared to the House to have

speech referred to, as given in *Hansard's Parl. Debates*, vol. xxxviii. p. 1275.—ED.

“ I do not know what course the House is about to take on this subject, although I cannot help suspecting what that course will be—a course utterly unwarrantable to the individuals more immediately concerned, and utterly repugnant to the spirit of all parliamentary proceeding. Deeply involved as our privileges are in this question, yet, as this Parliament will, in all probability, be dissolved in a very short period, I fear its last act will be an act of signal injustice. Such, Sir, will be a fit close for the greater part of our proceedings. Apprehending that we are within a very few hours of the termination of our political existence, before the moment of dissolution arrives, let us recollect for what deeds we have to account:—Let us recollect that we are the Parliament which, for the first time in the history of this country, twice suspended the Habeas Corpus Act in a period of profound peace:—Let us recollect that we are the confiding Parliament which entrusted His Majesty's Ministers with the authority emanating from that suspension, in expectation that, when it was no longer wanted, they would call Parliament together to surrender it into their hands,—which those Ministers did not do, although they subsequently acknowledged that the necessity for retaining that power had long ceased to exist:—Let us recollect that we are the same Parliament which consented to indemnify His Majesty's Ministers for the abuses and violations of the laws of which they had been guilty, in the exercise of the authority vested in them:—Let us recollect that we are the same Parliament which refused to inquire into the grievances stated in the numerous petitions and memorials with which our table groaned; that we turned a deaf ear to the complaints of the oppressed; that we even amused ourselves with their sufferings:—Let us recollect that we are the same Parliament which sanctioned the use of spies and informers by the British Government; debasing that Government, once so celebrated for good faith and honour, into a condition lower in character than that of the ancient French police:—Let us recollect that we are the same Parliament which sanctioned the issuing of a circular letter to the magistracy of the country, by a Secretary of State, urging them to hold persons to bail for libel, before an indictment was found:—Let us recollect that we are the same Parliament which sanctioned the sending out of the opinion of the King's Attorney-General and the King's Solicitor-General as the law of the land:—Let us recollect that we are the same Parliament which sanctioned the shutting of the ports of this once hospitable nation to unfortunate foreigners, flying from persecution in their own country.

“ This, Sir, is what we have done; and we are about to crown all

great weight; and the Speaker having expressed his *The clause rejected by the Commons.* opinion that the clause came directly within the rule, the House resolved not to agree to the amendment. This must very much disconcert the Ministers' plan. They must either give up their clause altogether or bring in a new Bill, which will necessarily postpone for some days the dissolution of Parliament.

8th, Mon. The Ministers have brought a Bill into the *A new Bill brought in, but not retrospective.* House of Commons, to declare that the purchasing stock of the Bank of Scotland shall not have the effect of naturalizing the purchaser but they have given the Bill merely a prospective operation, and it is to be in force only till the 25th of next March.

The foreigners, therefore, who have already purchased stock since the 28th of April (and it seems they are only 94 in number) are left in undisturbed possession of their naturalization. The Bill was read three times in one day, and sent up to the Lords.

An immediate dissolution of Parliament is now certain. *Expected dissolution of Parliament.* It is decided that I am not to come in again for Arundel. The Duke of Norfolk has been very anxious to bring me in, but he has found it impossible, without leaving out his brother, Lord Henry Howard. Sir Arthur Piggott has, in a letter which I have seen, pressed the Duke to suffer him to retire to make room for me, but the Duke would not consent to leave out so old and faithful a friend; and it has, I know, very much mortified the Duke, that, in consequence of his unavoidable arrangements with respect to his seats at Steyning and Horsham, he is unable to provide one for me. In the mean time, I have had very strong representations made to me to offer myself at several places of popular election,

by the present most violent and most unjustifiable act. Who our successors may be I know not; but God grant that this country may never see another Parliament so regardless of the liberties and rights of the people, and of the principles of general justice, as this Parliament has been."

such as Liverpool, Coventry, Chester, Hull, Huntingdonshire, and Glamorganshire. I have been assured that my success at any of those places would be certain, and that the expense would be very inconsiderable. I had determined not to accept any of those offers, or to put myself to any expense, or to offer myself as a candidate anywhere, when, on this day, a requisition was made to me by many electors of Westminster, to bring me in without trouble or expense; and I have accepted it.

9th, Tu. The Bill respecting the Bank of Scotland Stock passed the House of Lords.

10th, Wed. The Prince Regent from the throne dissolved the Parliament, without, as had been expected, any previous prorogation. As soon as *Parliament dissolved*. the Court of Chancery rose to-day, I went out of town to Tanhurst. This is one of the great advantages that I have derived from giving up the Rolls. I shall now have a week entirely to myself, and which I can pass quietly in the country. I shall enjoy it the more from the contrast it forms to the bustle which will be going on in town respecting the approaching Westminster election.

The requisition which was made to me on Monday last did not take me quite by surprise. I had been asked, some days before, whether, if I were elected to represent the City of Westminster in Parliament, I would sit for it. My answer was that, if I were elected without any interference on my part either directly or indirectly, I should certainly think it my duty to accept the seat, but that I would not offer myself as a candidate, or take any step whatever towards securing my election. In accepting the offer thus made me, I have no pleasure whatever. It gratifies no vanity of mine, and, whatever be the result, it will contribute in no degree to my happiness. I am acting solely under a strong sense of duty; and those only who know how extremely disagreeable it is to me to present myself as an object of public notice, can judge what an irksome duty it is that I conceive myself to be discharging.

I am requested to permit myself to be nominated as a candidate for Westminster.

The requisition, and my answer to it, were in the following words:—

“ To Sir Samuel Romilly.

“ Sir,—Anxious to see this populous and important city represented in Parliament by a person conspicuous in the country for talents and integrity, we, the undersigned inhabitants of Westminster, request you to permit us to put you in nomination at the ensuing election. We further request you to abstain from all personal attendance, trouble, and expense. We require from you no pledge, since the uniform tenor of your honourable life, your known attachment to the Constitution, your zealous and unremitting efforts for the amelioration of the laws, the correction of abuses, and the support of the cause of freedom, justice, and humanity, wherever assailed, are a sure pledge to us of your qualifications for our service, in common with that of the country at large.

“ We have the honour to be, Sir,

“ Your faithful servants.¹

“ Westminster, June 6th.”

¹ This requisition, signed as follows, together with Sir S. R.'s answer to it, were inserted in the original MS., from a newspaper.—ED.

John Mackay	Robert H. Evans	Henry Joyce
John Rodwell	G. Philips	Geo. Adcock
Wm. Allason	H. G. Bennet	Robt. Walpole
J. Arnold	Daniel Giles	James Chambers
Edward Jeffery	Harvey Combe	H. Donaldson
Robert Linerly	R. Payne Knight	P. Moore
Richard Tait	Ja. Perry	Henry Burgeas
George Metcalfe	Boyce Combe	J. Willis
George Lamb	Cliff Ashmore	R. Griffin
James Stodart	J. Mills	V. Knox
Ligonier Thomas	J. Fisher	T. Chamberlayne
George Lane	Robt. Spencer	R. Whitcroft
Thomas Tomkison	Geo. Bainbridge	J. Oliphant
George Yonge	Th. Hughes	R. W. Clarkson
A. Ritchie	Joseph Delafield	Jno. Nash
Thos. Wright and Co.	J. Hammond	Chas. Prater
James Sutton	Geo. Clarkson	Sefton
John Wood	Rich. Henderson	J. T. Walker

“ Gentlemen,

“ In answer to the requisition which I have this day had the honour to receive from you, I do not hesitate to say, that, though I should never have presumed to offer myself as a candidate to represent the City of Westminster in Parliament, yet, if it should be the pleasure of a majority of the electors, without any solicitation or interference on my part, to choose me for one of their representatives, I shall think that the highest honour has been conferred on me that it was possible for me to attain. I shall be proud to accept such an honour, and I shall endeavour to discharge, to the best of my abilities, the important duties which it will impose upon me.

“ I have the honour to be, Gentlemen, with great respect, your most obedient and faithful servant,

“ SAMUEL ROMILLY.

“ June 8th, 1818.”

17th, *Wed.* After staying a week at Tanhurst, I returned to town, but without my dear Anne. A very distressing increase of the indisposition with which she has been afflicted, obliged me to leave her behind me. Dumont, who is come from Geneva, and is passing some months in England, had come to visit us at Tanhurst, and returned with me to town. On my return, I find the preparations for the ensuing election for Westminster going on with great activity. *Approaching election for Westminster.* My friends are exerting themselves very strenuously on my behalf, and committees have been formed in the different parishes to canvass for me. At the pressing instance of Lord Holland, and of others who are very zealous and active for me, and whom I knew not how to refuse, I have consented to my son William joining the canvassers. It is with great reluctance that I have given this consent, for

Nathaniel Roberts	W. H. Davis	Richards and Son
J. Dunn	John Wilson	Christopher Allen
S. Yockney, Son, and Yockney	John Smith	Stephen Lewis
John Paternoster	James O. Pettitt	T. Field and Son
George Austen	William Vickery	George Dawne
	Keene and Horsford	Charles Smith

I can hardly think there is much consistency in refusing to solicit votes myself and yet allowing my son to solicit them. Lord Holland is very desirous that I should go on the hustings during the election, but this I am fully determined not to do. I will ask no man for his vote either in private or in public, and shall neither be disappointed nor much elated, whatever be the result of the election.

The candidates are,—Captain Maxwell, who is supported *The candi-* by all the influence of Government; Hunt, my *dates.* former competitor at Bristol, who can have no possible expectation of being elected, and who stands only that he may have an opportunity of making violent speeches, and abusing the men he once extolled; old Major Cartwright, who seems to be put up by some absurd radical reformers, without any hope or even wish of his own; and Douglas Kinnaird, a brother of Lord Kinnaird's, with whose name, till the present moment, the public was wholly unacquainted, and who is set up by a little committee of tradesmen, who persuade themselves that they are all-powerful in Westminster, and can bring in any man whom they choose to propose as a colleague to Sir Francis Burdett,—Sir Francis himself being, as they suppose, and I believe with very good reason, quite sure of being elected.

The canvass for me has, I am told, been very successful, and my friends express the greatest confidence that I shall be elected. Burdett and Kinnaird's Committee appear to be very angry at my being named as a candidate, and have published some violent handbills against me, in which they accuse me of being a lawyer, one of the Whig faction, and a person who sat on a committee against the much-injured Princess of Wales. This nonsense seems to have had very little effect; but what I find has been of great disservice to me with many of the electors, is the opinion which is generally entertained that I was the author of Lord Redesdale's Insolvent Debtors' Act. That notion is likely, as I understand, to lose me many votes.

18th, Th. The election began. The show of hands *Commence-* was in favour of me and of Hunt. A poll was *ment of the* of course demanded; and at the close of the election. poll of this day, the numbers were,—Romilly,

189; Maxwell, 176; Burdett, 87; Kinnaird, 25; Hunt, 14; Cartwright, 10.

19th, *Fri.* At the close of the poll to-day the numbers were,—Romilly, 825; Maxwell, 754; Burdett, 348; Kinnaird, 55; Hunt, 30; Cartwright, 18.

And 20th, *Sat.* Romilly, 1276; Maxwell, 1241; Burdett, 484; Kinnaird, 63; Hunt, 33; Cartwright, 20.

22nd, *Mon.* It being clear, from the state of the poll on Saturday, that Kinnaird had no chance of being elected, and that Burdett's Committee and his other friends were greatly endangering his election by canvassing for Kinnaird in opposition to me, they determined to withdraw that gentleman as a candidate, and to canvass for Burdett alone, and to endeavour by every exertion they could make to place him at the head of the poll. They accordingly sent an invitation to him, to present himself upon the hustings. This he declined doing, in a strange letter filled with quotations from Shakspeare, and which discovered very clearly his mortification (notwithstanding the indifference he has always affected on the subject) at seeing himself so low on the poll. It must indeed be mortifying to him; for, a few weeks ago, he imagined he could bring whom he pleased in with himself as Member for Westminster. He offered it, as I have been assured, to Mr. Fawkes, of Yorkshire, and pressed him to accept it; but that gentleman declined the honour intended him. In consequence of the exertions made, Burdett gained greatly on to-day's poll. The numbers at the close of it were,—Romilly, 1879; Maxwell, 1726; Burdett, 1263.

23rd, *Tu.* Burdett still gained upon the poll, and got before Maxwell: at the close the numbers were,—Romilly, 2546; Burdett, 2171; Maxwell, 2169. Captain Sir Murray Maxwell has been grossly insulted by the populace every day of the election; and to-day, as he was retiring from the hustings after the election was over, he was attacked by some ruffians and very severely hurt.

I have never been near the hustings, nor intend to go near them till the election is at an end. I attend every day in the Court of Chancery, and go on with my business

*Kinnaird and
Cartwright
withdrawn as
candidates.*

there as quietly as if there was no election in the kingdom. To-day I dined with Rogers (the poet). A very pleasant dinner with Crabbe (whom I had never before seen), Frere, and Jekyl.

24th, *Wed.* Burdett continues advancing every day on the poll; and his friends entertain no doubt that they will place him at the head. Douglas Kinnaird, who, now that he is no longer a candidate, has come to the hustings to make speeches for Burdett, speaks of his being at the head of the poll as the only matter worth thinking about in the election. "So that he comes in triumphantly on the car of reform, it is matter of indifference who may get up behind;" this was one of his phrases. Other of Burdett's sanguine friends say they are sure of getting him several thousand votes above all the other candidates. Knowing the exertions that are making by Government for Maxwell, they suppose that the contest will be between Maxwell and me; and, with this knowledge, some of them, and amongst others Kinnaird, have requested many of the electors, if they would not give single votes for Burdett, to bestow their second votes on Maxwell rather than on me. At the close of the poll to-day, I had 3016 votes; Burdett, 2792; and Maxwell, 2598.

July 4th, Sat. This being the last day on which by the *Election Act of Parliament* the poll could be kept open, *closed*. the election finally closed; and, notwithstanding the boast of Burdett's friends, I was at the head of the poll, as I had been during the whole contest. The numbers were,—for me, 5339; for Burdett, 5238; for Maxwell, 4808; and for Hunt, (who, under every sort of disgrace, had continued a candidate to the end, some days polling one or two votes, and some days none,) 84. Though I had kept away from the hustings during the whole of the election, I thought myself bound to attend at the close of it to thank the electors. I addressed them in a short speech, which will be found at the end of this volume,¹

¹ The following is the speech alluded to.—Ed.

"As long as the contest which has just terminated was depending—as long as my appearance amongst you could be considered as a

and which was very favourably received. The ceremony of chairing followed, which I would very willingly have

solicitation of your votes for an honour which, whatever the kind partiality of my friends may have induced them to think, I never presumed to imagine myself deserving of, I abstained from presenting myself to you; but, now that the contest is at an end,—now that I have been chosen one of your representatives, and that I can address you by the endearing name of my constituents,—I hasten to appear before you, and to thank you for the honour you have done me, and the confidence you have placed in me. To be chosen by your free and unbiased votes to represent this great, populous, independent, and enlightened city in Parliament,—to be selected from amongst public men to declare your will and express your sentiments on all the most important questions that can interest the community,—is, in my estimation, the highest honour to which, in this free state, any individual can be raised. It is an honour to which, notwithstanding the decision you have pronounced, I can still hardly venture to think that I had any just pretensions. The endeavours I have used to serve the public have, by the too-indulgent partiality of others, been, I am sensible, in this place greatly over-rated; and I ought rather to offer an apology for what has been said of me, than to claim the benefits of such a panegyric. I have, indeed, endeavoured to be useful to the public; but my endeavours have seldom been successful. Such, however, as they are, it is those endeavours which alone have recommended me to your favour; for, though born and having passed my whole life amongst you, it is by my public conduct alone that I have become known to you. Gentlemen, I really have not words adequately to express the gratitude which I feel. I am sensible, however, that the thanks which it will become me to give, and which will be worthy of you to receive, are thanks not to be expressed in words, but in actions, not in this place, but within the walls of the House of Commons. The Representative of Westminster should express his thanks by a faithful discharge of the sacred duties which you have imposed upon him; by a constant and vigilant attention to the public interests; by being a faithful guardian of the people's interest, and a bold assertor of their rights; by resisting all attacks, whether open or insidious, which may be made upon the liberty of the press, the trial by jury, and the Habeas Corpus—the great security of all our liberties; by defeating all attempts to substitute, in place of that government of law and justice to which Englishmen have been accustomed, a government supported by spies and informers; by endeavouring to restrain the lavish and improvident expenditure of public money; by opposing all new and oppressive taxes, and, above all, that grievous, unequal, and inquisitorial imposition, the income tax, if any attempt should be made in the new Parliament to revive it; by endeavouring to procure the abolition of useless and burthensome offices, a more

dispensed with. It was settled, however, by those who had taken great pains to secure my election, that a chairing there must be; and there was no escaping it. The procession, which consisted of many carriages and horsemen, passed through the Strand, Pall Mall, and St. James's Street, to Burlington House, the residence of Lord George Cavendish; from which I soon got away by the garden door, and walked very quietly home unobserved by any one, though a short time before I had been offered as a spectacle to the immense crowd which thronged all the streets through which the cavalcade had passed. Though Sir Francis Burdett's friends were disappointed and chagrined at his being second on the poll, and deferred his chairing to a future day, yet no symptom of dissatisfaction appeared in any part of the crowd; but I was everywhere hailed with shouts and congratulations.

Among the strange incidents which occurred during the election, was the decided part which my ^{Bentham.} excellent friend, Jeremy Bentham, took against me. He did not vote, indeed; but he wrote a handbill, avowed and signed by him, in which he represented me to be a most unfit Member for Westminster, as being a lawyer, a Whig, and a friend only to moderate reform. This handbill he sent to Burdett's Committee; but, as it did not reach them till after they had become sensible that they had injured their cause by their abuse of me, they refused to publish it. Some of my friends were very angry with Bentham for this hostile interference against me.

equal representation of the people in Parliament, and a shorter duration of the Parliament's existence; by being the friend of religious as well as of civil liberty; by seeking to restore this country to the proud station which it held amongst nations when it was the secure asylum of those who were endeavouring to escape in foreign countries from religious or political persecution. These are the thanks which the electors of Westminster are entitled to expect; and when the time shall come that I shall have to render you an account of the trust you have committed to me, I trust in God that I shall be able to show that I have discharged it honestly and faithfully. Gentlemen, for myself I return you my sincerest thanks, and for the result of the election I offer you my warmest congratulations."

For myself, I feel not the least resentment at it. Though a late, I know him to be a very sincere, convert to the expediency of universal suffrage; and he is too honest in his politics to suffer them to be influenced by any considerations of private friendship.

12th, Sun. Attended a meeting of the Opposition at Brookes's, at which it was determined to request Tierney to consider himself as their leader.

Dined the same day at the Duke of Sussex's, at Kensington Palace. It was a dinner which His Royal Highness was kind enough to give to celebrate my election.

19th, Sun. I took possession of a small cottage which I am to rent for a few weeks on Hampstead Heath. I shall only be able to get there in the evening, and must be in town early every morning to attend the Court of Chancery.

27th, Mon. I dined at Bentham's; a small but very pleasant party, consisting of the American Minister (Mr. Rush), Bentham, Brougham, Dumont, Mill, and Koe.

I have received numerous letters of congratulation from my friends, on the result of the Westminster election. The two which, from the view they take of the subject, are most worth preserving, are from my friend Creevey, at Brussels, and from Mr. Otter. Creevey's letter is as follows:—

“ Dear Romilly,

“ Brussels, July 13.

“ I am quite sure there is not a man in all England who rejoices more sincerely in your late triumph at Westminster than myself; and I write you this line to tell you so. Considering your uniform conduct in Parliament, and, above all, considering that faithful and courageous picture which you drew of the late Parliament at the close of its existence, your triumph over the court, and within its own walls, is almost beyond belief. Your election, too, will be a just and lasting reproach to the Whig aristocracy, who had made no arrangement for securing your continuance in Parliament, and who could never have

Creevey's
letter on the
Westminster
election.

anticipated this fortunate event: * and lastly, it is a great and signal triumph over the intemperate partisans of Burdett, who have been compelled for the first time in their lives to suspend their blackguard abuse and folly, from pure extorted deference to your own personal character; so that your election is perfect in all ways, and ought to be an eternal lesson for politicians of all descriptions in time to come."

To save myself the trouble of copying Mr. Otter's letter,
Mr. Otter's I annex it at the end of the book.¹
letter. Aug. 7th, Fri. I gave up the cottage at
 Hampstead.

* This is certainly an unjust reproach. I had no claims on what Creevy calls the Whig aristocracy. The Duke of Bedford, however, as I afterwards learned, had made an arrangement to provide a seat for me, if I were not returned for some other place.

¹ The following is the letter from the Rev. William Otter (late Bishop of Chichester).—ED.

" My dear Sir, " Kinlet, near Bewdley, July 6, 1818.

" I cannot deny myself the pleasure of congratulating you most heartily and sincerely upon the event of the anxious but glorious struggle in which you have been engaged. Nothing, indeed, could be more fitting or more honourable. You are placed precisely in the situation which your public services had merited; and the electors of Westminster have raised themselves mightily in the opinion of all wise and honourable men. In my own judgment, everything has turned out exactly as it should have done. It was right that you should be called upon publicly to become a candidate—still better that you should not be supported by the friends of Sir Francis Burdett—and best of all, that you should be at the head of the poll. It is an additional pleasure to infer, from the completeness of your success, that the Whigs are gaining ground in public opinion; for, although I most sincerely believe that no one but yourself could have achieved for them such a victory, yet I doubt whether even you could have done it a year or two ago. In this county almost all the gentlemen are Tories; but I have not seen one who did not express a hearty wish for your success.

" I fear that the agitation of this scene has not been favourable to Lady Romilly's disorder; but joy is a good physician, and I hope it will prove so to her."

Sept. 3d. Arrived at Cowes.¹

12th. Anne went into the sea-bath.

13th. Taken ill.

14th. Sailed with Mr. Fazakerley to Southampton.

16th. Consulted Mr. Bloxam.

19th. Roget and William arrived, and Mr. Nash.

Oct. 9th. Slept for the first time after many sleepless nights.

10th. Relapse of Anne.

[Lady Romilly died on the 29th of Oct. 1818. Her husband survived but for three days the wife whom he had loved with a devotion to which her virtues, and her happy influence on the usefulness of his life, gave her so just a claim. His anxiety, during her illness, preyed upon his mind, and affected his health; and the shock occasioned by her death led to that event which brought his life to a close, on the 2d of Nov. 1818, in the 62d year of his age.]

¹ This and the following memoranda are written upon a loose sheet of paper, found in the last volume of this Diary.—Ed.

LETTERS TO C.

INTRODUCTION.

THE following portion of this work, which the Editors have entitled "Letters to C." consists of four unfinished papers by Sir Samuel Romilly, which may be described in his own words as "Observations on his situation in life and future prospects, in the course of which he indulged himself in passing in review some projects for the public benefit."¹ The two first, written in 1801, which are in the form of letters addressed by an imaginary friend to himself, and the third, in 1807, relate to the office of Lord Chancellor. The fourth, written in 1818, which is in the form of a letter addressed by himself to the same imaginary friend, refers to the course of conduct he ought to pursue as a representative for the city of Westminster. Connected with the three first of these letters is a series of papers on the duties of a Lord Chancellor in his character of a Legislator, a Minister, and a Judge. They do not form any regular or complete treatise, but are principally in the nature of sketches to be afterwards filled up, and occasionally little more than memoranda to recall former reflections. The following account of them may serve to show in what manner they are connected together, and what light they throw on the letters themselves:—

One of them is entitled "*Memoranda of things to be done on entering into office.*" It contains a series of resolutions relating to the duties of the Lord Chancellor in his different capacities.

Those which relate to his legislative duties are in these words:—"To reform the Civil Code;" "To reform the

¹ Vide *suprà*, p. 76.

Penal Law ;" and they refer to separate manuscripts bearing the same titles. These contain a list, more or less detailed, of the particular reforms which he contemplated in both these divisions of the law : and a note is attached to each proposition referring to manuscripts, to works, and to reported decisions, which afford information as to the nature and extent of the abuse, and the mode of reforming it ; and, in some cases, to the names of persons who might furnish information or assistance. The following selection from those which are entitled "*The Reform of the Civil Code*" may give a more correct idea of their nature and object :—

1. "To alter the law respecting debtor and creditor ; to make the real estates of a person who dies indebted, assets for the payment of all his simple-contract debts ; to make copyhold estates assets, to make them subject to executions ; to make the estates of tenants in tail assets for the payment of all their debts.
2. "To correct the injustice attending the law as it now stands, with respect to extents and the recovery of debts due to the Crown.
3. "To amend the Bankrupt Law.
4. "To declare that a voluntary conveyance shall not be void, as against a subsequent purchaser, if he had notice of it prior to his purchase.
5. "To abolish certain injurious legal fictions, such as that *lis pendens* is notice to all the world.
6. "To establish a general registry of deeds.
7. "To reform the practice of the Courts, particularly of Courts of Equity ; to diminish the delays which now prevail, and to correct the many abuses which notoriously exist in the Masters' offices.
8. "To abolish useless offices in the Court of Chancery, and such as are burdensome to the suitors. The Six Clerks, Cursitors, &c., to reimburse the present possessors of those offices out of the dividends of the unclaimed property in the Court.
9. "That some greater form of solemnity than is now necessary ought to be required in wills of personal estates.

10. "To abolish the common law offences of forestalling, engrossing, and regrating.

11. "To pass an Act declaring that the Court of Justiciary in Scotland shall not have power to transport for common law misdemeanors."

Where, in these lists, any one of the reforms contemplated is stated in very general terms, a paper is commonly to be found bearing the same title, and containing in a similar form an enumeration of changes proposed to be made in that branch of the law. Thus, in the selection already given, the propositions relating to the reform of the Bankrupt Law and the practice of the Court of Chancery are developed in other papers, where some of the proposed alterations are stated; and they are accompanied with the usual references to manuscripts, books, and persons whence assistance might be derived.

The manuscripts to which the notes in these lists refer are sometimes mere sketches of the mode of carrying the proposed reforms into effect; but the greater part of them are essays¹ on the reform of specific evils in the law. They

¹ The following is a list of such of these Essays as are most complete:—

1. On the Promulgation of Laws.
2. On a Written Code of Laws.
3. Project of a New Code.
4. On unauthorised Reports of Judicial Proceedings.
5. On certain Rules of Evidence.
6. On the Imposition of Taxes on Law Proceedings.
7. On Irrevocable Laws.
8. On the Law of Libel.
9. On Apprenticeships.
10. On Bankrupts.
11. On the Poor-Laws.
12. On Divorces among the Poor.
13. On Superstition.
14. On Judicial Superstition.
15. Attempts to Reform Defects and Abuses in Criminal Law.
16. On a Public Prosecutor.
17. On Ignominious Punishments.
18. On Cruel Punishments.
19. On Military Punishments.

were written at various times, and, for the most part, before the writer appears to have indulged in any expectation of becoming Lord Chancellor, but which, when he entertained that idea, he reconsidered, made various additions to, and incorporated in the manner already mentioned, with his reflections on the legislative duties of that office.

A series of propositions relating to the ministerial duties of Lord Chancellor are collected in the papers entitled "*Memoranda of things to be done on entering into office*," similar to those relating to the reform of the law; but, from the different nature of the subject, they are less developed in accompanying manuscripts, and contain fewer

- 20. On the Regard to be had to Sex, Age, and Condition of Life in inflicting Punishment.
- 21. On Punishments to Children.
- 22. On Transportation.
- 23. On Conspiracies to convict innocent Men.
- 24. On Confession and Denial after Conviction.
- 25. On Perjury.
- 26. On the Punishment of Perjury.
- 27. On Shoplifting.
- 28. On Petty Treason and Murder.
- 29. On Appeals of Death.
- 30. Account of a Criminal Trial in Scotland.
- 31. On Suicide.
- 32. On Blasphemy.
- 33. On Bigamy.
- 34. On Felony.
- 35. On the Clergy as amenable to Criminal Law.
- 36. On Forestalling and Regrating.
- 37. On Laws against unusual Crimes.
- 38. On allowing Counsel to Persons accused.
- 39. On Compensation to Persons wrongfully accused.
- 40. On the Policy of giving Rewards on Conviction.
- 41. On frequent Public Executions.
- 42. Observations on Eliza Fenning's case.
- 43. Observations on Bentham on Punishment.

It was respecting that portion of these Essays which relates to the Criminal Law, and some other papers not here enumerated, that the direction in a codicil to his Will, mentioned in the Preface to the First Volume, refers.

references to extrinsic sources of information. The following are selections from these propositions :—

1. “ To keep lists of persons qualified for the different offices in my appointment, and to designate in my own mind who shall succeed upon the first vacancy : to avoid the evil of the offices remaining long vacant, and to prevent solicitation of candidates.

2. “ To find out, and bring forward, talents wherever they can be found. In doing this, to disregard rank and family and places of education, and, above all, to divest myself of all consideration of personal favour.

3. “ Invariably to appoint to offices the men who are most fit to fill them ; to do this in every profession, and in every department of the State.

4. “ In the Church, to consider those as best qualified to advance the interests of true religion and of the State who entertain the most liberal opinions ; not those who consider the religious order as a kind of corporation, as a profession which has its own particular interests to consult, and between which and the laity there should be kept up, as it were, a continual struggle.

5. “ To promote and improve public education in all orders of society.

6. “ To reform the Public Grammar Schools.

7. “ To reform the Universities, and establish in them new professorships.”

To the 2d of these propositions is attached a short list of names ; and notes to the 6th and 7th refer to books and authorities relating to the powers of visitors, and to the mode in which these powers should be enforced.

The consideration bestowed on the judicial office appears from several papers in which the functions and duties of Judges are described. One of these consists of characters of several Judges before whom Sir S. Romilly had practised, with introductory observations on the qualifications required for the due discharge of the judicial office, and the instructive lessons which succeeding Judges might

derive from the example of the merits and defects of their predecessors. Another is on the manner in which a person might best qualify himself for the judicial station, and on the mode in which he ought to discharge its duties. This is in the form of a speech supposed to be addressed by a Lord Chancellor to a Chief Justice of the Common Pleas on his appointment, according to the practice which anciently prevailed in this country. Neither of these papers is complete; and the latter breaks off just where it would seem that the writer, after pointing out the general mode of discharging the judicial duties, was about to enter into a more detailed examination of them.

This account has been here introduced for the purpose of showing that the views entertained by Sir S. Romilly in writing the following letters were not confined to mere speculation, but that they were accompanied by much reflection and much investigation of the modes by which he might best carry them into effect. As he advanced in life, and became convinced that he should never have an opportunity of exercising judicial functions, he turned his attention to the particular but different duties which he considered that his station in life imposed upon him; and, accordingly, these form the subject of the fourth of these letters.

Although these communings with himself are of a peculiarly intimate nature, it has, nevertheless, been determined by the Editors, conformably with the motives which have led them to the publication of this work, not to exclude from it papers which appear to them to display, in a remarkable manner, the character of Sir Samuel Romilly's mind; his habits of self-examination; his endeavours to prepare himself for every event; his care to lay down the course of conduct he ought to pursue, under whatever circumstances he might be placed, and (as he himself expresses it) * "to record against himself the obligations by which he was bound."

* In an unpublished paper.

I.

Tenby, 1801.

OUR friendship, my dear C., is of too long standing, and has been proved on too many occasions, for you to doubt my sincerity, when I assure you that nothing ever gave me more pleasure than to hear how very successful you have lately been in your profession. Though I never entertained any doubt that the rank of King's Counsel¹ would be of great advantage to you, I did not foresee that your progress could be so rapid. It was not, indeed, to be foreseen; nor could it possibly have happened but for the late unexpected changes in the Administration, which, by removing the Attorney and Solicitor General² from your court, forced a great deal of business into a new channel.

What satisfaction would it not afford our dear Roget, if he were now living, to see so much of his predictions accomplished, to exult in your success, and to enjoy your reputation! He would be well entitled to enjoy it, since it is to him, in a great degree, that you owe it; for it was his advice and encouragement which induced you to enter upon a career for which you did not venture to think yourself qualified. Do you recollect the conversation which passed between you one night in his garden, in the neighbourhood of Lausanne? I shall never forget it. It was a very short time before the necessity of your return to England separated you from him,—separated you (as the unfortunate state of his health gave you both, at the time, but too much reason to fear, and as the event too fatally proved) for ever.

¹ Sir Samuel Romilly had been appointed King's Counsel on the 6th of November, 1800.—ED.

² Sir John Mitford (afterwards Lord Redesdale) and Sir William Grant; the former of whom was elected Speaker of the House of Commons, and the latter appointed Master of the Rolls, in April, 1801.—ED.

We were walking together on that fine elevated terrace, which commands one of the noblest views perhaps that the world affords, where the Lake of Geneva is seen spread out in the whole of its extent, with the Alps rising behind it in wild and stupendous masses. It was a clear serene night of autumn; there was no moon, but there was not a single cloud; and on every side the sky was resplendent with stars. The faint twilight was just sufficient to show the outline of the sublime scene before us, and to leave it to imagination or to memory to finish the picture. We had been discoursing on literary subjects: the eloquence of the ancient orators was one of our topics; insensibly the conversation passed to your profession, and from your profession to yourself. You seemed unconscious of the powers which Roget thought you possessed. I remember his telling you that he was quite confident of your success. The time, the scenery about us, the awful stillness of the night, the ideas which the former part of the conversation had set afloat in his mind, gave him an unusual degree of animation. With a warmth of eloquence which surprised me, even in him, he spoke of the great part you were to act as that which was certain, and, in the spirit of prophecy, unfolded to you your future life. God grant, that in what is to come he may prove as true a prophet as in that which is past! If he does, the sublimest enjoyment that human life affords is reserved for you,—that of exercising in an exalted station the noblest faculties of the soul, of improving the condition of mankind, and adding to the happiness of millions who are unborn.

There must be many periods of your past life which you must have great pleasure in recollecting, and in comparing with your present situation and your future prospects: the time, particularly, when the fate of all the persons most dear to you seemed to depend on your single exertions. The success of those exertions was then uncertain; and even your health, without which no exertions could be made, was precarious. I well remember the anxiety which at the time it was manifest you always felt, and which to me you sometimes expressed. That anxiety

is now completely dispelled. Of your family, those who are most advanced in life are enjoying a moderate competence; and the younger members of it have the prospect of being able to support themselves with honour and esteem, in that middle order of society in which happiness is most easily attainable: and, when you contemplate the change which has taken place in their condition and their future views, you have the solid satisfaction of reflecting that you are yourself in a great degree the author of it.

Yet, great as must be the enjoyment which such a retrospect must afford you, I would exhort you not so much to look back to the past as forward to the future. I would have you consider what has been done as little compared with what it remains for you to do. I would have you familiarize yourself with the idea of becoming a benefactor, not to individuals only, but to a whole nation, and to future ages; in short, I would have you prepare yourself for that eminent station which it is not impossible, or, if I were to express myself as sanguinely as I feel in common with many of your friends, I should say it is not improbable, that you may one day fill. Be assured that not only the event is possible, but that it may happen much earlier than your friends have any expectation of. Only reflect impartially on the political state of the country, on the situation in which you now stand, and on the talents, the politics, and the reputation of the men who are most eminent as lawyers, and of those who are rising into eminence, and say whether you can disguise from yourself the possibility (I will not use a stronger term) of your attaining, before many years have elapsed, the highest dignity of your profession.

It has happened, I believe, to most of those who have filled the great office to which I allude, to have found themselves placed in it without ever having formed any plan, or adopted any principles, to guide them in the discharge of its duties. I should be sorry that, in that respect, you should follow their example. I would have you now, when alone it can be done, finish that self-education which I have heard you say is the only one you ever received, by fitting yourself for the execution of that most

important trust which may perhaps one day be committed to you, in such a manner as will be the most beneficial to mankind, and consequently the most honourable to yourself. Whenever that day arrives, it will be too late to form plans, or to trace out a line of conduct. You will find yourself distracted with the hurry, and overcome by the immense labours, of your office. Every moment will be occupied with judicial attendances, with measures of temporary expediency, with private solicitations and conferences, with audiences which must be given, with the little intrigues of party which must be counteracted, and with all that empty pageantry and solemn trifling which in stations of the highest dignity are the most unavoidable. You will retire every night to rest, having added one day more of splendid but unavailing fatigue to your existence ; and if, in the course of it, some reflection should have forced itself on your mind upon the higher duties of that office which remain to be discharged, you will defer the consideration of them to a period of promised leisure, which, however, will not arrive. You will live, like your predecessors, only from day to day ; and, like them, you will descend from your high elevation with no more consoling reflection than that you have filled a great office without impropriety, that you have decided impartially the causes which came before you, that you have left the condition of your countrymen no worse than you found it, and that you will be known to future ages as the ancestor of those individuals whom they will see distinguished from the mass of mankind by nothing but vain titles and large possessions. Are these the reflections with which you would wish to quit such a station ? I think, nay, I am sure they are not. I am sure that, unless high dignities should alter and utterly corrupt you, not only you could derive no consolation from such reflections, but it would be to you a never-failing source of the most poignant self-reproach that you had suffered so glorious an opportunity of doing good, afforded you by Almighty God, to pass unimproved.

In the present state of society, I know of no situation in which an individual can have a greater influence on the happiness of mankind than that of a Chancellor of Eng-

land. To decide justly, wisely, and impartially, the private contests which arise between individuals, has been at all times considered as a very momentous duty. In England it derives peculiar importance from the circumstance of its being in a great degree an unwritten law that is administered, where every decision becomes in its turn a precedent ; and where it is impossible, in many cases, to decide as a judge, without laying down a rule as a legislator. But it is not only this subordinate species of legislation which a Chancellor has to exercise ; he has always a seat in Parliament, and, in the present order of things, his situation gives him a degree of weight and authority in everything that he proposes, which no talents or integrity, not invested with magistracy, can confer. Whatever great reforms are to be made in the civil and criminal jurisprudence of the country are wholly in the power of a Lord Chancellor. The almost irresistible authority which he possesses on such subjects has, indeed, been hitherto exercised only to prevent reforms ; but there is little doubt that it would be equally efficacious in promoting them. It is by recollecting the weight which a Chancellor must always have in the legislation of England,—and that England has, for some time past, in measures of public policy, as it were taken the lead in the civilised world,—that we may form an adequate idea of the extensive influence which he possesses over the well-being of his fellow-creatures. His other duties—the advice he is to give in the Council on all measures of temporary expediency, not only with respect to the domestic government of the country, but to its relations with foreign states ; and the selection of proper persons to fill the situations of trust to which, in the exercise of his extensive civil and ecclesiastical patronage, he appoints,—are, indeed, when considered by themselves, of very great importance. I cannot, however, but consider these, together with his judicial functions, as matters comparatively of little moment, and as the inferior duties of his office.

It is, however, those inferior duties of the office which seem to have principally, if not alone, occupied almost all

the persons who have filled it. The great Bacon alone, of all the Chancellors of England, seems to have turned his thoughts to the accomplishment of important reforms. In his time, indeed, and for a considerable period afterwards, the office was regarded in a very different view, and was, indeed, very different in its nature from what it is now become. The judicial duties of it were not then attended with a fiftieth part of the labour which now belongs to them. The rules of equity were then few and simple ; they did not form that complicated system, that refined and subtle science, into which they have now branched out ; and consequently it was not then thought necessary that a mere lawyer should fill the office. The single circumstance, that for a very long period of time none but practising lawyers have been appointed to the office of Chancellor, may sufficiently account for the manner in which its duties have been discharged. It is not from such a man that we should expect comprehensive reforms or important alterations in the law. His education, his inveterate habits, the society he has lived in, the policy by which he has always regulated his conduct, have all tended to inspire him with a blind reverence for every part of that system of law which he has found established. When we reflect on this,—when we trace the former lives of all the Chancellors of modern times ; when we see them, from the moment when they have quitted college, giving up their whole time to the study of one positive science, and cultivating no faculty of the mind but memory, the talent of discovering and pursuing nice and subtle distinctions and forced analogies, and the art of amplifying and of disguising truth ; when we see them stunned as it were, during the best years of their lives, by the continual hurry of business, reading nothing but what relates to the particular cases before them, shutting out all liberal knowledge from their minds, and contracting their views to the little objects with which they are continually occupied ; when we see them, after a time, advanced to the offices of Solicitor and Attorney-General, in which to defend and to extol every provision of the law seems to be considered as a kind of duty, as the test of loyalty,

and as an earnest of their fitness for some high judicial office; when we see them compelled to become politicians because they are the lawyers of the Crown, and acting, in the House of Commons, not the part of liberal and enlightened statesmen, but that of the retained counsel of the King and his Ministers; not debating for the public, but pleading for their peculiar clients;—can we be surprised that, stepping from hence into the seat of Chancellor, they do not at once assume a new character; that their dispositions and their habits are not altered; but that the same ignorance of everything but law, the same narrow views, the same prejudices, the same passions, the same little mind, are to be found in the magistrate, as marked before the hired and hackneyed advocate?

But you will ask, “Is not this satire, rather than instruction and advice?” Do I not know that you too are a practising lawyer, that your business is very considerable, and that your life passes in the same hurry, and is engrossed by the same occupations, as those whose faculties I represent as being so much injured by them and degraded? Do I imagine that you possess some magic charm by which you can preserve your energy and liberality of mind unimpaired in situations so dangerous to others? or would I advise you to give up your practice, and to devote yourself entirely to the study of the great principles of philosophy and legislation which alone can form a statesman in the genuine sense of that word? Most certainly that is not the advice which I would give you: you could not adopt a more effectual expedient for excluding yourself for ever from the Chancellorship, than such a course of preparation for it. If ever you are Chancellor, it will be because you are a lawyer in great practice: and those parts of your character and attainments on which I set the highest value will be only excused in favour of those which appear to me to be comparatively mean and unimportant.

Neither do I suppose you possessed of any charm to preserve your mind untainted by professional habits, or to render it inaccessible to those prejudices which an ad-

cate, in the course of his practice, usually contracts ; it would have you be on your guard against them. I could prevent you so devoting yourself to your present occupations as not to look forward to that higher destiny which awaits you. I would have the expectation of that stony be itself the charm which shall render you proof against all the corruptions of your present condition ; and, as we have seen Chancellors who, though invested with all the dazzling insignia of the highest magistracy, were still nothing more than advocates, so I would have you, while an advocate, be already, in the extent of your powers and the elevation of your mind, a Chancellor. I could have you keep that high station continually in your thoughts ; not, indeed, as it has possessed the minds of any, serving only as a spur to their ambition, and prompting them to suffer no opportunity of facilitating their accession to it to pass unimproved,—but that you may lose no time in preparing yourself for the discharge of those duties which you know not how soon may be imposed upon you ; and, perhaps, before you can be enabled to make the most for mankind of the advantages which you will possess. Reflect, again and again, not only on everything which you are to accomplish, but on all the means by which you are to accomplish them. Suffer nothing to escape you which has the least chance of being useful to a Chancellor, such as you conceive he ought to be ; and note down everything which you observe. Look out amongst your friends and acquaintance for the men who are likely to be zealous coadjutors in your designs, and treasure up their qualifications in your memory till you can call them into action ; and in the mean time consider yourself as such a coadjutor ; as one to whom a Chancellor—anxious to make his talents, his knowledge, his honours, his authority, his influence, in short, all the extensive means which God has afforded him, as profitable as he can to his fellow-creatures—has opened his glorious objects ; and endeavour to assist to the utmost of your power in their execution, by availing yourself of all the opportunities which a Chancellor in the execution of his office cannot possess.

It will be an encouragement to you, in the fatigue and irksomeness of your daily practice, to have such an object in view. With this ever present to your mind, a private cause, which in itself would only afford you weariness and disgust, * * * * *

II.¹

NOTHING that has passed, my dear C., since I last wrote to you, has at all weakened my expectation of seeing you one day in that high station to which I then so anxiously encouraged you to aspire. I do not wish to divert you from such anticipations; nay, on the contrary, I would have you entertain and dwell on them. If, indeed, I could suppose that, in such reveries, the circumstances on which your imagination dwelt with most pleasure were the splendour and magnificence which attend so high an office; the homage which is always paid to the man, be he who he may, before whom the mace and the great seal are borne; the advantage of appearing with high distinction in the brilliant circle of a court; of living in habits of familiarity with those to whom the vulgar look up with awe and veneration; the pride of transmitting a title to your posterity; or even the satisfaction of thinking that it is your own exertions alone which have raised you to such an eminence,—I should fear the indulgence of them would be attended with consequences the most pernicious. Men with whom such things are objects of ambition are seldom very scrupulous about the means by which their ambitious ends may be accomplished; and if they happen to fail of success, the dreams of greatness which they had cherished serve only to mortify their pride and to embitter their chagrin and disappointment. But he who sees principally in a high office the enlarged means of doing good, and the exquisite satisfaction of discharging well the most important duties; who dwells on the delightful vision of a highly improved state of society, in which the evils inseparable from the human

¹ There is no date to this letter in the original.—ED.

condition are mitigated, and the errors, the follies, and the vices of mankind are corrected, tempered, and repressed; and who can, in these waking dreams, connect himself with the improvements he contemplates, as being in some degree the cause and author of them;—to such a man, the very reveries which he has entertained are a real good. If ever they should be realized, he will come into office having well considered, and being matured, and, as it were, exercised for, its important functions, and ready to improve and make the most of every moment of his public life. His enjoyments will be multiplied beyond what is the common lot even of the most upright magistrates; for he will have enjoyed in hope and in expectation all that it will be his great good fortune to accomplish. The period of his remaining in office, considering the brevity of human life, and the late stage of it at which such promotions ever are attained, cannot be of long duration; and the time which may elapse after his magistracy is at an end, the season of reflection on his past life, cannot, in the nature of things, be long attended with unimpaired faculties, or with any capacity of such enjoyments; but, by anticipating in his reflections the good which he is to do, he will have enlarged the period of a happy and an honoured existence.

If, on the other hand, his expectations never should be realized—if his honest projects should be disappointed without any fault of his, and he should remain to his death in privacy and obscurity, yet the hopes which he has nourished, and the dreams in which he has indulged, have gilded and enlivened that season of life, which, without them, would have been comparatively dull and insipid; they have in his own eyes ennobled his existence, and enlarged and elevated his views and his habits of thinking. He was in an error; but it has been a salutary error. He has amused himself with a fiction; but that fiction has produced substantial benefits. His mind, occupied with such noble subjects of contemplation, has not been so accessible to mean and little and selfish considerations as it would have been if he had been engrossed by frivolous or inferior pursuits.

III.

Cowes, in the Isle of Wight, Sept. 1807.

It is now just six years since I found myself, at the same season of the year, in a situation much resembling that which I am in at present. After very close application to the severe labours of my profession, I had retired for the long vacation to Tenby in Pembrokeshire, and was indulging myself in the enjoyment of the refreshing breezes of the sea, the beautiful scenery around me, and the perfect quiet and undisturbed leisure which formed so striking a contrast with the course of life from which I had just escaped. Such an interruption of my usual occupations and fatigues led me, at that time, naturally enough, to reflect on my situation, and to meditate on my future prospects. I could not bring to mind the progress which I had made in my profession, and observe the then state of political parties, without thinking it possible that I might, at some time or other, be raised to the highest office of judicature; and I could not, without forgetting all that I had heard from my friends and my acquaintance, but suppose that such an event was even probable. Recollecting what duties that high station would bring with it, and fully sensible of my own inability adequately to discharge them, I applied myself to the consideration of what a Chancellor of Great Britain ought to be; of what extensive means he has of improving the condition of his fellow-creatures; and how anxious he should be not to suffer opportunities of beneficence, which are afforded to so few, to pass unimproved. I endeavoured to familiarize myself with ideas which would become such a station; and, while still in privacy and obscurity, and possessed of the leisure which is requisite for such undertakings, to prepare myself with the system of conduct which I ought to adopt, and to mature plans of reform which I should be desirous to establish. That I might derive the more profit from these meditations, I thought

of committing them to writing. When I set about this task, however, it appeared to me so ridiculous that a private individual, a mere advocate, distinguished by no honour in his profession except that of being King's Counsel, a person not in Parliament, and not connected with any political party, should amuse himself with the idea of becoming a Lord Chancellor, that I could not trust the thought to paper, even though it was to be seen by no eyes but my own. To accomplish, therefore, my object, and yet escape this ridicule, I began a series of letters, supposed to be addressed by some intimate friend to a barrister, who might form expectations of rising to the highest eminence in his profession, suggesting to him reflections which I wished myself to indulge, and giving as advice what I intended to prescribe to myself as laws. I had not prosecuted this idea very far when my leisure was broken in upon by some avocation or other, and the season of business too speedily returned. In the next long vacation I profited by the short peace which this country enjoyed to gratify my curiosity by revisiting Paris; and I have not in any succeeding vacation found myself in a situation so well adapted to the continuation (the renewal, I should rather say) of that self-admonition which I had begun, as at the present moment. With respect to myself, however, circumstances have in this interval very greatly altered.

The expectation of arriving at the highest honours of my profession would perhaps now not be treated with ridicule by any person who heard that I entertained it. I have filled the office of Solicitor-General under that Administration which was formed by a union of Mr. Fox and Lord Grenville, and of all their political friends, and which consisted of all the public men in the kingdom most distinguished for abilities and for enlarged political views. They have been dismissed from their offices under the pretext that a measure of great importance to the tranquillity and safety of the empire, which they had projected, was likely to endanger the Church establishment. The present Ministry, however, can hardly, considering what the crisis is to which public affairs are

hastening, be very long in power; and if those whom they have supplanted should recover their authority, the Great Seal can scarcely be again entrusted to the hands of Lord Erskine: with all his talents (and very great they undoubtedly are), his incapacity for the office was too forcibly and too generally felt for him to be again placed in it:—Piggott, the late Attorney-General, would probably, decline a situation of so much fatigue, if it were offered to him; and there is no other lawyer at all connected with any of the men who would form the administration, who can aspire to so high a station.

But while the course of public events seems to have brought this object more within my reach, it has rendered it to me less, very far less, an object of desire. The aspect of public affairs has strangely altered in this short interval. Who can look at what has taken place in the rest of Europe, and think of what may be expected here, and consider offices of high trust as objects of envy? What, in such times as those which are fast approaching, is a man of high rank, but a person who is destined to bear a larger portion than others of the public misfortunes? What is a Minister, but a man raised to eminence, only that he may be responsible for calamities which it is not, however, in human wisdom to avert? If there be any mode by which I could ever render any service to my countrymen, it could only be by advancing the arts of peace, by useful laws, and salutary reforms; by promoting the diffusion of science, and the improvement of the public morals: but what room will there be for all this in the troubulous times which we may expect, and with the dispositions which we see entertained by those on whose will the success of such things principally depends?

Deprived of the hope of doing that good which I had once flattered myself it might be my singular good fortune to achieve, what motive can I now have for accepting such an office? If I consult only my own happiness, or the good of those who are dearest to me in the world, I can never hesitate a moment to refuse it, under whatever circumstances it may be offered to me. Not that I pretend to be so free from vanity as not to be highly gratified at

being thought endowed with qualities worthy of so eminent a station. I have no claim to the merit of such philosophy. On the contrary, I am sensible to the praises and the admiration of those with whom I live, to a degree of which I have reason, perhaps, to be ashamed; but I know that all such gratifications are of short duration, and that they are most dearly purchased at the price of that domestic peace and tranquillity which must infallibly be sacrificed to obtain them. To live without interruption in the bosom of my family; to enjoy every day, and almost every hour, the affectionate and endearing society of that most sensible and most amiable woman with whom I have the happiness to be united; to watch and improve the dawnings of reason in the children I am blessed with; to forget, in poring over the pages of historians, of poets, and of philosophers, the evils which are at this moment afflicting the world;—these are my dearest and fondest enjoyments: * all these

* In making these observations on that domestic comfort which I have the happiness to enjoy, and to feel the value of, I did not sufficiently consider how much of that comfort arises from the public duties which I here suppose to be so incompatible with it. Pure as these enjoyments are, I possibly might not have so strong a relish for them if they were not interrupted by the occupations of business; and a great part, undoubtedly, of the satisfaction which I feel in privacy and retirement, arises from reflecting upon what little public good I have been able to do, and from the public services which I have it in contemplation to perform. When I observe my sweet children, and please myself with imagining what in time they will be, I cannot but be desirous that they may hereafter reflect without dissatisfaction, nay, with pleasure and pride, upon what their father was, and what he shall have accomplished.

Mackintosh, observing, in one of the lectures which he read at Lincoln's Inn, upon the conduct and the fate of Regulus, very justly remarked that, when his virtue was supposed to have brought on him the greatest misery, and when it might therefore be thought that his was an example ill calculated to prove the expediency of a strict adherence to principles of honour and patriotism, it ought to be recollect what enjoyment those principles and that temper of mind, which made it impossible for him, in the circumstances in which he was placed, not to expose himself to such cruelties, must, in the whole course of his past life, have continually afforded him; and that, great as the torments were which were inflicted on him, yet, if a just estimate were made of the whole sum of good and evil of his

must be resigned. I cannot devote any portion of my time to such objects without betraying my duty. Every hour must be consumed in the most laborious occupations, or, what is still more hateful to me, in the parade of courts, the giving audiences, and entertaining strangers; in pomp and show, in unprofitable forms and unmeaning ceremonies. And what should I reap from this splendid but painful drudgery?—for the public, nothing: for my own reputation, nothing: and in point of emolument I must even to a great degree be a loser. It is true that my income would, for the time, be greater than it is at present; but not so much greater as, allowing for the necessary increase of my expenses in equipages, entertainments, and the decorations of such an office, to afford me the means of laying by every year nearly so large a saving as at present, for my support in old age, and as a provision for my children: and then that income, instead of being permanent as long as my health and my faculties shall be preserved, will cease the moment of my removal from my office; and I should then find myself afflicted with a title which would render my eldest son, as well as myself, incapable of gaining a livelihood. The heir to a title, that son would be doomed to idleness for the remainder of his days, and perhaps at the same time to indigence. If my poor boy should ever be condemned to a destiny so calamitous as this, let me at least be sure that it is not through his father's fault that it has been brought upon him; that his misfortunes are not to be ascribed to the foolish vanity of his father, or to his ill-judging ambition, but to a strong and imperative sense of duty, which would have compelled him to sacrifice his own happiness, and what it would cost him a much sharper pang to risk, in the

life, it would probably be found that the evil was greatly overbalanced by the good. In the same manner it would become me, if ever I should find myself harassed and overwhelmed with the duties of my office, and made wretched by the calamities which may attend my public life, to reflect that those sentiments which would have made me think it most dishonourable, through regard to my own individual comfort, to shrink from such trials, will have been the source of that pure and perfect happiness which, in the earlier part of my life, I have enjoyed.

hope of being able to improve the condition of a large portion of his fellow-creatures.

Yes, it would be that hope, that hope alone (and it would be strange indeed if, in thus communing with myself, I could use any disguise), which could induce me, for an instant, to hesitate at renouncing all thoughts of accepting any public station. It behoves me, therefore, most seriously to consider, whether there be now any reason for my nourishing any such hope. The prospect before us is that of foreign wars and domestic tumults. We have to expect the long-meditated invasion of the most formidable enemy that this country ever knew ; and at the same time to dread the ill-smothered resentment of a large portion of our fellow-subjects, * who have been long and most cruelly trampled on, and who are now probably only watching their opportunity to break out in open rebellion. In the scenes which are likely to be acted in this country, the laws themselves will probably be silent ; how can it be expected, then, that the temperate voice of reform should be listened to ?

Nor does the alarming state of public affairs alone give reason to despair of being able to benefit mankind by any attempt to serve them. The disposition of all orders of persons in the country seems adverse to such designs. The influence which the French Revolution has had over this nation has been in every way unfavourable to them. Among the higher orders it has produced a horror of every kind of innovation ; among the lower, a desire to try the boldest political experiments, and a distrust and contempt of all moderate reforms. In the very limited attempt which I have already made to begin to alter and improve those barbarous and irrational laws respecting the rights of creditors over the property and persons of their debtors, which disgrace this country, I have experienced how indifferent the great body of the public is to such subjects, and how much power is attached to a senseless cry of the wisdom of our ancestors, when it is set up to defend institutions of which the forms and names have long survived

* The Irish.

the spirit and reason. A Chancellor is not all-powerful: he may, indeed, alone correct the abuses and reform the practice of his own court; but, as to any great schemes of public benevolence, it is impossible for him to carry them into execution without the co-operation of his colleagues and the support of Parliament. What, therefore, at the present day, could a man who would be desirous of employing the great means which he would seem to possess to the most advantage for his country derive from the situation of Chancellor, but the pain of being tantalized with the delusive appearance of accomplishing great objects, which, as he endeavours to reach them, will constantly elude his grasp?

Indeed, in whatever way I consider the prospects before me, I see no chance of my being able to do any public good. If, indeed, my lot had been cast in days of peace; if it had been my fortune to have met with the support of a frank and beneficent Prince, or with the encouragement of a Parliament actuated by the purest patriotism and the most earnest desire to promote the welfare of the people,—very different might have been my destiny; but, looking around me, seeing who are the individuals with whom and for whom I am to act, and recollecting what I am, I cannot but be convinced that a life of privacy and obscurity is that for which I am best suited: I shall pass from off this mortal stage, it is true, without having rendered any public benefit to my country, and without leaving a name worth being remembered; but I shall have lived as happy as the endearments of domestic life can render any human being; and my dearest wife and my beloved children will be the happier and the better because such will have been the obscure path in which I shall have journeyed through life.

But while I thus, in a time of calm and of leisure, and at a moment when my judgment is likely to be most sound, renounce all thoughts of acting a part on that great theatre which probably would be open to me, I cannot but sometimes indulge myself with splendid and enchanting visions which float across my mind. In representing to myself the good which might still be done in this country, with some little change of circumstances, and in fancying

myself an instrument in accomplishing that good ; in these my half-waking dreams, I sometimes suppose that season to have arrived when His Majesty, having lived to an extreme old age, shall have yielded to the universal law of nature, and shall have descended into the tomb of his fathers, and when the Prince shall have ascended the throne which he was born to inherit. I suppose him to have delivered the Great Seal into my hands, and to have done it with assurances and in a manner which convinced me that I had his entire confidence. I imagine all the persons who have been then newly appointed to the highest offices of the State to be animated with the same zeal for the public good. All jealousy, all apprehensions of a colleague interposing his advice in matters not within his own immediate department, are banished. All are actuated by the same spirit ; all feel the same contempt for the personal advantages to be derived from office, and for the mean homage which attends the exercise of ministerial patronage ; all feel alike a sense of the difficulties in which the country is involved, and a conviction that nothing can extricate it and can raise it in the new order of things which prevails in Europe to the rank which it once held among nations, but to call forth all the strength, the courage, the talents, and the resources of the kingdom.

I imagine myself eagerly and earnestly preparing to discharge all the various and important duties which a Minister, and that Minister a Lord Chancellor, would, in such a situation, find pressing upon him. I am impatient to see executed all the schemes which I had formed for improving the condition of my fellow-creatures ; for I cannot persuade myself that, under such circumstances, the perils with which the country is threatened would afford any reason for abandoning, or even for postponing them. If, indeed, a Minister had only to choose between preserving the country from a foreign yoke, or perfecting its laws and its institutions,—if the last of these objects could not be pursued without hazarding the first of them,—no doubt all projects of reform and of improvement should, in such a moment, be renounced altogether. For, although I am strongly impressed with a sense of the public evils and

abuses which exist in this country, yet God forbid that I should for an instant entertain that unnatural and impious sentiment which, though it has been imputed to some men, is perhaps really felt by none,—that things are so bad with us that we have nothing which we ought to wish to preserve! Much as there is which loudly calls for reformation amongst us, yet, with all its defects and oppressions, no wise and virtuous man would hesitate to sacrifice his life to preserve our government, even such as it is, for those who are to come after him. Fortunately, however, Ministers have no such painful alternative offered to them. Improving our domestic concerns, instead of weakening us as a nation, would give us renewed strength and increased resources. To remove all just causes of complaint in the people; to give them new securities for their liberties; to improve their condition; to perfect our laws; to correct all abuses; to purify the administration of justice;—to do all this, is to supply us with far better means of defence than could be acquired by additional fleets and armies.

Placed in such a situation as I have imagined, and impressed with these sentiments, the first thing I should attempt would be to inspire my sovereign with the same enthusiasm for the public good which I felt myself; and to endeavour to make myself secure, that in the measures to be proposed I should have his cordial support. The importance of this preliminary step I should feel to be so great, that I should endeavour to accomplish it by all the means in my power. To awaken these generous sentiments in the bosom of the King, it would be necessary to open to him, without disguise, the whole of my plans; to place before him his real situation, as well as that of his people, and to speak truths which never before have reached his ears. To carry on, then, this romantic vision (for such, no doubt, it is), let me suppose that, taking advantage of a moment most favourable for such a purpose, having obtained an audience of the King, and having first awakened his curiosity by giving him to understand that it was on a subject of deep importance to himself and to the nation, I address him to this effect:—

“The situation, Sir, in which you are placed is one of

extreme difficulty. You have succeeded to the throne at a crisis of danger unexampled in the history of your kingdom. The present moment is one which requires the utmost exertions of the State, not to ensure to it a triumph over its enemies, but to enable it to preserve its existence. The popularity of the most beloved Prince that ever reigned over a free people,—the utmost energy of men feeling all the value of the liberties they have inherited, and proud of their pre-eminence amongst nations,—a national enthusiasm of public spirit wrought up to the highest pitch,—all this would not be more than equal to rescue the country from the dangers which threaten it: but, instead of all this, what does your Majesty find? To deceive you, to withhold from you any part of the truth, under circumstances so urgent as the present, would be the basest of treasons. If your Majesty were incapable of hearing and of profiting by the truth—if no one had the courage to speak it to you—the situation of the country would indeed be desperate. To use no disguise, then, your Majesty, notwithstanding what the voice of adulation may have told you, enjoys no popularity amongst your subjects: your youth is supposed to have been spent in unjustifiable excesses; political factions have laboured to exaggerate your indiscretions; the utmost industry has been used to give, as extensively as possible, impressions of you the most unfavourable, and that industry has been exerted with but too much success. It is of the highest importance to your Majesty's happiness, and to the tranquillity of your reign, that these impressions should be removed as speedily as possible. There was a time, indeed, when a long line of royal ancestors gave a prince such perfect security that he should transmit in peace to his heir the throne which he had inherited from his father, that it was unnecessary for him to desire or to deserve the affection of his subjects: but that time is past. It is in his own personal qualifications alone that a prince must now look for his security; and your people, Sir, are yet to be convinced that the personal qualifications which will secure a throne are yours. The first acts of your government will decide the character of your reign. You have

ascended the throne at a mature period of life ; and, in the first errors of your reign, if your Majesty should unfortunately fall into any, your people will not have the consolation of looking forward to better times, when the facility or impetuosity of youth shall have passed away, and their King shall have profited by the lessons of experience. Though the policy of your royal father, and the high rank of the heir-apparent, prevented you heretofore from taking any open part in public affairs, yet your Majesty cannot have remained an inattentive or an unconcerned spectator of what was passing around you. The moment which has now arrived must have been long anticipated by you in imagination ; and it cannot but be supposed, that the principles of government which will characterize your reign have long been rooted in your mind. Many of those upon whom your Majesty's enemies have most strongly impressed an opinion to your disadvantage, are yet not unwilling to hope that your public opinions may be of a different character from that which, they have been taught to believe, has marked your private conduct ; and all persons look forward with eager solicitude to the events of a few months to come, as those which are to declare the fate of this country.

“ The happiness of a people must always depend in a considerable degree on the character and disposition of their sovereign ; but never, perhaps, did any monarch before find himself in a situation in which the well-being, not of his subjects only, but of their posterity, more depended on himself, than these now depend on your Majesty. Those persons, Sir, are strangely deceived who persuade themselves that, in the present state of the world, no great part is left to any of the sovereigns of Europe to act ; and who represent them all as reduced only to struggle to retain a precarious possession of their thrones,—happy, it should seem, if they can but preserve the pageantry of royalty from the all-destroying ambition of the Emperor of the French. Listen not to such degrading suggestions. No, Sir ; to you it is still allowed to aspire to the highest glory that ever elevated any human being above his fellow-creatures. It is true that

if your ambition were to make conquests,—if you were desirous to impose the yoke of your dominion on independent and unoffending nations,—those paths of glory, as they are falsely called, are not open to you: there you cannot be unrivalled; nay, it would be gross adulation to say, that you would not be far surpassed: but there are other and still nobler attributes of royalty in the exercise of which you need not fear any rival. Let it be seen that to make your people happy will be the great, the only object of your reign: that the most effectual means of accomplishing that end will constantly occupy your thoughts; that you look at the regal office, not as affording you means and opportunities of luxurious enjoyment, but as imposing on you the most important and sacred duties, and that you are resolved magnanimously to discharge them.

“ When you shall have once impressed your subjects with the belief that these are your sentiments,—when your ministers shall have shown that they are inspired with zeal to serve faithfully, and to give vigour and efficacy to the beneficent and paternal views of, their Patriot King,—put arms into the hands of all your subjects; make this an armed nation for its defence. A people that is free; that is contented; that knows the value of its rights, and the benefits it derives from its laws; that feels not a superstitious veneration for the name of King, but a grateful attachment to the man who seems to have assumed the cares of royalty only to provide for their security and happiness;—such a people, fighting on their own soil, surrounded by their fathers, their children, their wives, their kindred, their friends and their countrymen, must be invincible. Let not a false and narrow-minded policy * * * *

* * * *

IV.

My dear C.

Sept 5, 1818.

OUR correspondence has been long interrupted. It is now more than ten years since I conferred with you very confidentially on the views which I then entertained with respect to myself and to public affairs. I laid my whole mind open to you. Allow me to do so again ; to make you once more my confessor ; and to enter before you upon the task of self-examination, and to deliberate with you upon the prospects which lie before me. These prospects are now greatly contracted. Ten years is a large portion of human life, at any stage of it ; but at the advanced period to which I had arrived when I last addressed you, it might be supposed nearly to comprise the whole of what then remained. The lapse of those ten years, however, seems to have left me with undiminished strength and activity, and with the same power, had I the same prospects, of making myself useful to others as I had at the commencement of them. Those prospects, nevertheless, are greatly altered. I cannot but be sensible that the means I have left of being serviceable in any way to my countrymen or my fellow-creatures must, according to the usual course of human life, be now contracted into a very narrow space. A few years more of active life with unimpaired faculties is the utmost I can hope for. When I last addressed you, I looked forward to what then seemed within the probable compass of human events—my being raised to a high judicial station. I was busied in preparing myself for the discharge of its sacred duties ; and, in a happy anticipation, I already exulted in the opportunity which such a station must afford of benefiting the present as well as future generations. From such splendid dreams I have long since awakened.

The time within which, if ever, they must have been realized, has passed away, and has not only left me in a state of privacy, but with much less prospect, even if my

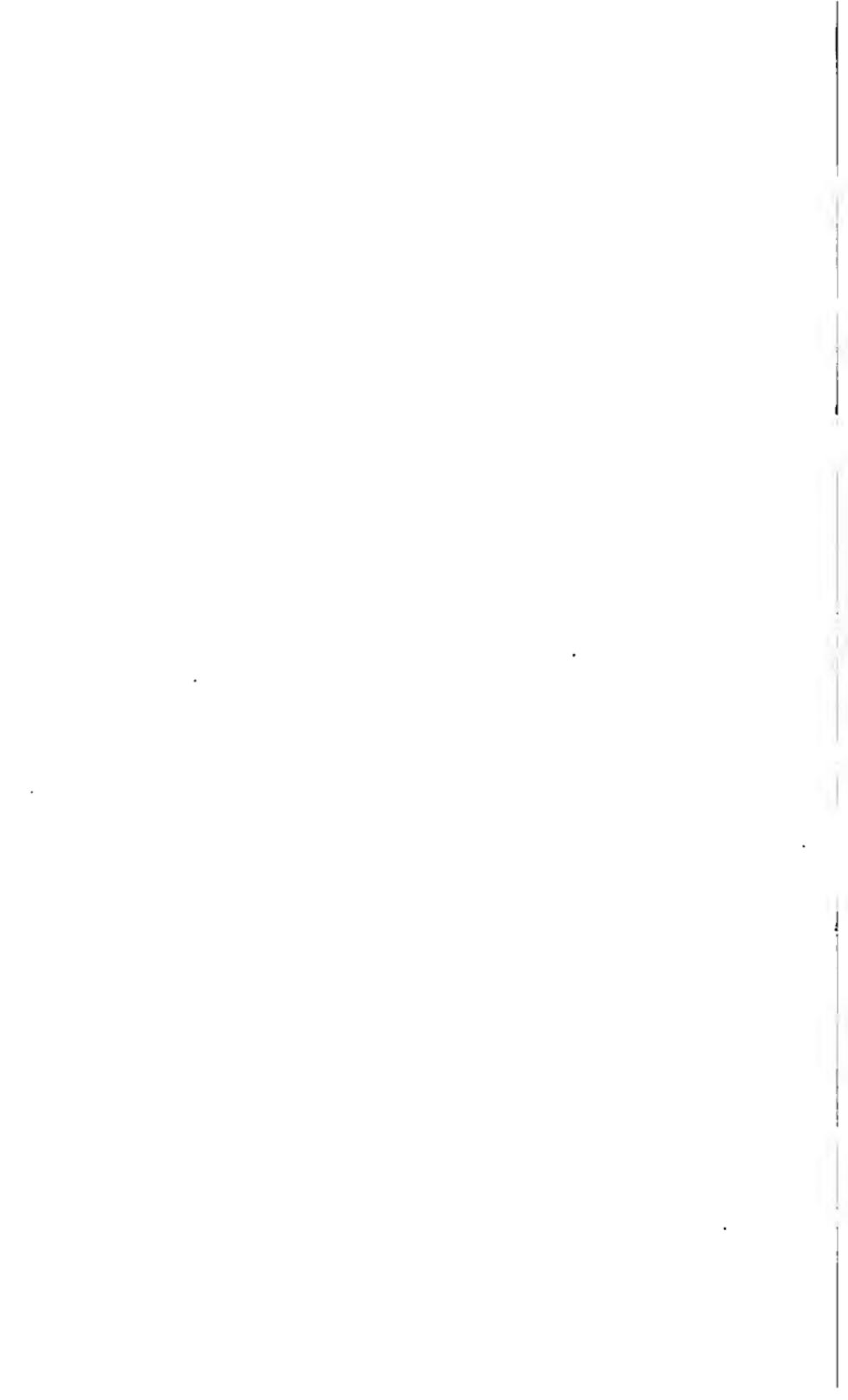
stock of life had remained undiminished, of ever emerging from it. The monarch who then sat on the throne has since been, in effect, removed from it by mental incapacity. His son, the present Regent, has shown sufficiently by his conduct that those political principles which I have always professed, and with which I shall descend into my grave, must for ever exclude those who act upon them from his favour. The hopes which the nation began to cherish from the rising virtues of the Princess Charlotte have been, by her premature and unexpected death, for ever extinguished. In the Duke of York, and in the other of the King's sons, (with the exception of the Duke of Sussex, who is too far removed from the succession to afford any prospect of its devolving upon him,) are to be found the most narrow and bigoted notions of government. God forbid that my public conduct should ever recommend me to the favour of any of these princes! Still, however, though destined never to fill any public office, and though few must be the years that remain for me, I am not without the means of rendering some services to mankind; and I still feel a strong impulse to employ these means to the best advantage. The faculties, indeed, which I possess, and the influence which I have in Parliament, are not sufficient to enable me to carry there any important measures; yet it remains for me to propose what I think right; to resist what is pernicious; to support my opinions by sound arguments, and on generous principles; and to leave to the world an example in public life of honesty, independence, and patriotism. In following this course, I shall not have lived in vain; and, little as those who breathe the same air with myself may profit by my exertions, it is possible that the happiness which those who are to come after me, nay, which a remote posterity may enjoy, may, in some degree, be attributable even to my unsuccessful efforts, and rejected motions.

The honour which has lately been conferred on me, that of being elected to represent the city of Westminster in Parliament, has, in some respects, added to my means of being useful. It has drawn upon me an additional portion

of public attention ; it has placed me, as it were, in a more conspicuous theatre ; and has given some importance to my actions, and even to my speeches. It has, however, at the same time, brought with it some difficulties to which I was not before exposed. I seem to be not quite so much the master of my own conduct as I used to be. Chosen by popular election to represent the metropolis, which on all great questions of public interest has, of late years, taken the lead in supporting the claims and pretensions of the people, it will be expected of me that I shall maintain such pretensions more strenuously than I have ever done before ; that I should pay my court to the people, and be ever ready to attend the call of those who shall think proper, as they have been accustomed to do, to summon popular meetings on great public questions as they may occur. I feel, however, no inclination to act any such part. I am the servant of the people, but I am determined not to be their slave ; and I should think the proud distinction which has been conferred on me had lost half its value, if it had been obtained, or was to be preserved, by acting the part of a factious demagogue. I do not say that I will attend no popular meetings, but I will attend them only on extraordinary occasions ; and, when these occur, I will endeavour to temper the violence and to remove the prejudices which I may find prevailing there. No conduct can, in my eyes, be more criminal than that of availing one's self of the prejudiced clamours of the ignorant or misinformed to accomplish any political purpose, however good or desirable in itself. If I use strong language, and take a bold part for the people, it shall be in the House of Commons, not in Palace Yard. If I cannot serve those of my fellow-citizens who are in the humblest situations of life, at least I will not injure them. I will be careful not, by inflaming their passions, and encouraging them to enter upon courses of which the danger would exclusively be theirs, to draw ruin upon their heads.

Recollecting what frequently passes at popular meetings, I cannot but think that those who often attend them generally lose by such attendance much of the weight

and dignity which may have belonged to their characters; whatever may belong to mine I will endeavour to preserve undiminished. Though it be now evident that I shall never be raised to any high office, yet I am resolved so to conduct myself, as if I knew that the highest dignity was my certain destination. Upon the hustings, in Covent Garden, at election dinners, and at tavern meetings, when I am obliged to be present at them, I will always endeavour to speak and act like one who bears in mind that the time is approaching when he is to fill the highest seat of justice. What, indeed, is it which in a private station can give to any man weight and influence with others, but the independence and dignity of his character? It is by these alone that he can be enabled to stand up against all the power and authority which rank, and office, and court favour must always confer. It is by a dignified conduct, and an unsullied reputation, much more than even by arguments or eloquence, that he may gain over supporters to the people's cause, and check, and restrain, and intimidate an insolent and corrupt administration, and counteract their mischievous designs. A representative of Westminster who would effectually serve his constituents must, above all things, be attentive not to debase his character by pursuing mean and unworthy objects, or even by exposing it to undeserved contempt or ridicule. He must be careful not to throw away or spoil in Palace Yard the most formidable weapons with which he can fight the battle of his constituents in Parliament.



APPENDIX.

No. I. (See p. 403.)

Letters and Papers from Mons. Gallois.

My dear Sir,

Paris, Dec. 31, 1815.

Je profite du retour de M. B—— pour vous envoyer les brochures dont je vous avais parlé. Vous les trouverez bien médiocres, et vous aurez raison. Mais enfin vous jugerez par là de l'état de notre presse. Nous pouvons dire maintenant d'elle ce que Bossuet disait de votre Princesse Henriette : *La voïd telle que la mort nous l'a faite.* Nous avons la licence de la presse, nous n'en avons pas la liberté ; nous en avons la licence pour le profit de la faction qui veut dominer, nous n'en avons pas la liberté pour les intérêts de la nation. Il faut que je vous raconte sur ce sujet un trait qui vous donnera une idée des caractères et des sentiments élevés de la plus grande partie des hommes qui ont de la réputation dans ce pays, et qui se sont formés à la politique dans l'école de l'ancien gouvernement, transportée par ces messieurs dans le nouveau. Vous avez entendu parler de la nouvelle loi des Cours Prévôtales. Ces Cours Prévôtales ne se bornent pas comme les anciennes aux simples actes de violence à mains armées par des rassemblements d'individus ; elles sont aussi établies contre les rassemblements, dont l'espèce est déterminée par la loi. Croiriez-vous qu'un membre de l'Institut, un des hommes qui ont le plus de réputation en France dans les sciences physiques, *M. Cuvier*, maître des requêtes sous Bonaparte, conseiller d'état sous Louis XVIII., chargé par le Roi en sa qualité de conseiller d'état de venir défendre ce projet de loi à la Chambre des Députés, a osé dire cette phrase-ci : "Je conviens, Messieurs, que les *juges prévôtaux* pourront devenir les *juges de la littérature*. Je conviens, Messieurs, qu'on écrira moins de livres de politique, que les libraires en vendront moins ; mais vous conviendrez bien, Messieurs, qu'il n'y a pas au fond un trop grand malheur à cela ?" Il est bien sûr que comme ce digne homme n'écrivit que sur les mollusques et l'anatomie comparée, les ossements fossiles, &c., et qu'il jouit pour ces grands travaux si utiles à la prospérité de la nation de 30 milles livres de rente, il n'aura pas grand chose à

craindre des Cours Prévôtale, et que si l'on ne peut plus s'occuper des sciences politiques et morales, il faudra en revenir, pour faire quelque chose aux insectes et aux os fossiles, ce qui sûrement mettrait fort à leur aise les vampires qui voudraient exploiter la France pour leur profit particulier. — Nos journaux et papiers publics sont principalement dans un état déplorable; pas une vérité utile à la nation, pas un fait important à connaître; tout l'art de ceux qui les composent sous la surveillance de la police, est de cacher tout ce qu'il importera au public de savoir, et de lui donner les plus fausses impressions des faits qu'on lui présente. Quand le funeste empire de Bonaparte a été détruit, je n'ai que trop pressenti que nous souffririons encore longtemps de la pernicieuse influence de ses pratiques de gouvernement, et des hommes pervers qui s'étaient formés à son école; que l'esprit de son administration, ses commis et ses agents, transplantés dans le gouvernement nouveau, ne feraient qu'aggraver le danger et les maux qui naissaient naturellement de ces circonstances nouvelles. Au milieu de tout cela, la nation reste debout, et marche dans la direction de l'esprit des temps et de la raison universelle: elle vit sur ces foules d'idées et de sentiments qui sont le patrimoine commun de l'Europe, et dont aucun accident politique ne pourra jamais priver les nations: elle n'a rien de commun avec tous ces sycophantes politiques qui, dans leur journaux, leurs discours publics, ou les actes de leur administration, prétendent stipuler pour elle, parce qu'elle sait très-bien que ce qu'ils demandent pour elle, elle ne le veut pas attendre, qu'ils ne demandent que ce qui peut servir leurs intérêts et leurs passions contre son intérêt véritable.

Je vous envoie sur l'affaire des Protestants deux écrits; l'un est leur défense imprimée, écrite par l'un des ministres Protestants du département du Gard. Les personnes impartiales et bien instruites des faits disent que cet écrit ne renferme rien que de vrai; mais la police en a empêché la circulation, de sorte que cet écrit est devenu très-rare. L'autre écrit que je vous envoie est manuscrit; il a été rédigé par un Protestant, *Royaliste très-prononcé*, que je connais beaucoup: ainsi vous voyez que sous ce rapport cet écrit n'a rien de suspect. Ces deux écrits vous donneront une idée exacte de la nature de ces événements. Je joins ici les détails, que vous me demandez dans votre dernière lettre du 19 de ce mois que j'ai reçue par M. Delessert, relativement aux conférences des plénipotentiaires Français avec le Duc de Wellington.

Quand j'aurai pris tous les renseignements qui me manquent encore sur les élections dernières, je vous les enverrai.

Agréez je vous prie les nouvelles assurances de tous les sentiments avec lesquels je suis, Votre, &c.

Immédiatement après l'abdication de Bonaparte, les deux chambres nommèrent un gouvernement provisoire.

Ce gouvernement envoya des plénipotentiaires vers les souverains alliés pour *traiter de la paix*, puisque ces alliés avaient constamment déclaré que c'était à Bonaparte seul qu'on faisait la guerre, et que Bonaparte seul faisait obstacle à la paix.

Pendant que ces plénipotentiaires, revenus de Manheim à Hagueneau, cherchaient inutilement à pénétrer vers les ministres de ces souverains, qui ne répondraient que par des évasions et des retards, les armées du Duc de Wellington et de Blücher s'avançaient vers Paris.

Le gouvernement provisoire sentit alors la nécessité d'envoyer vers ces deux généraux des plénipotentiaires dont l'unique objet était d'obtenir un *armistice qui donnât le temps aux plénipotentiaires, alors à Hagueneau, de continuer à traiter de la paix*.

Ces plénipotentiaires furent MM. Flaugergue, Boissy d'Anglas, Valence, Andréossy, et la Bernardière. Ils furent chargés de se rendre d'abord directement au quartier général de Blücher, qui était près de Senlis. Arrivés aux avant postes, celui-ci leur fit répondre qu'il n'avait rien à leur dire, et qu'ils pouvaient s'adresser au Duc de Wellington. Ils vinrent alors auprès de celui-ci, qui était près du Pont St. Maxence, et lui firent part de l'objet de leur mission, *l'armistice*. Le Duc répondit qu'il verrait Blücher, qu'il ne pouvait traiter de rien sans lui à l'égard de cet armistice. Mais les circonstances s'arrangèrent toujours de telle manière, que les deux généraux ne purent jamais se rencontrer, ni probablement s'écrire; les jours s'écoulèrent ainsi. En attendant, les armées s'approchaient toujours de Paris autant qu'elles pouvaient. Au bout de quelques jours, le Duc de Wellington annonça aux plénipotentiaires qu'il allait partir pour St. Cloud, où devait être signée, avec de nouveaux commissaires arrivés de Paris, la convention relative à l'occupation de la capitale par les armées alliées. Il fut évident que Blücher et Wellington n'avaient jamais voulu traiter la question de *l'armistice*; qu'ils l'écartaient sans cesse, tantôt sous un prétexte, tantôt sous un autre; qu'ils voulaient absolument, et à quelque prix que ce fût, entrer à Paris, y faire entrer le roi à leur suite, et que les choses s'arrangeaient ensuite, comme elles le pourraient, entre le roi, la nation, et les puissances alliées. L'objet unique des plénipotentiaires étant *l'armistice*, les cinq ou six jours qu'ils passèrent auprès du Duc de Wellington furent tout-à-fait perdus quant à l'objet principal: il n'y eut entre eux que des conversations étrangères à l'objet dont ils étaient chargés, quoiqu'elles fussent relatives à la situation et aux affaires de la France.

Dans la première de ces conversations, le Duc de Wellington leur dit qu'on ne faisait point la guerre pour Louis XVIII., qu'on la faisait uniquement contre Bonaparte, parceque l'indépendance de l'Europe et la tranquillité du monde étaient incompatibles avec lui. Sur cette observation l'un des plénipotentiaires lui dit, que dans ce cas la guerre n'avait donc plus d'objet, que Bonaparte n'était plus le chef du gouvernement, que son existence politique était finie. Le Duc leur répondit, qu'il fallait le leur livrer ; les plénipotentiaires répliquèrent que cela était impossible, et par deux raisons : la première, parceque cet acte serait de la part du gouvernement un acte de cruauté et d'infamie qui ferait horreur à la France, et dont le gouvernement était incapable ; la seconde, qu'ils étaient certains qu'il allait se rendre à Rochefort pour s'y embarquer, qu'ils avaient même quelque raison de croire qu'il était déjà parti de Paris. A quoi le Duc répondit, "Il n'en sera pas plus avancé ; s'il s'embarque, nos frégates sauront bien le prendre, et il sera bientôt amené prisonnier en Angleterre."

Alors un des plénipotentiaires lui dit, en riant :—Mais, Mylord, puisque vous avez tant d'envie de tenir Bonaparte, pourquoi ne le teniez-vous pas mieux, pourquoi ne l'avez-vous pas mieux gardé, lorsqu'il était à l'île d'Elbe ? C'était, répondit le Duc, c'était à votre gouvernement à le garder mieux qu'il n'a fait ; il avait en croisière trois bâtiments pour cela.

Dans l'une de ces conversations, le Duc de Wellington dit que les vertus personnelles, le caractère connu du Roi Louis XVIII. étaient regardés par toutes les puissances comme la meilleure garantie que la France pouvait leur offrir en ce moment. Si les Français, ajouta-t-il, voulaient un autre roi, le Duc d'Orléans par exemple, ce serait un usurpateur, *bien né* sans doute, mais enfin ce serait toujours un usurpateur : alors la France aurait besoin de donner de plus grandes garanties. Si l'on voulait le petit Napoléon, mais (dit-il, en s'interrompant, et comme rejettant loin de lui cette idée) cela est impossible ; mais, enfin, si l'on voulait le petit Napoléon, alors il faudrait de bien plus grandes garanties encore, peut-être une grande partie du territoire de la France.

Il revint ensuite à l'idée que Louis XVIII. était le roi qui convenait le mieux à la France en même temps qu'à l'Europe ; il rejeta fort loin la prétention de la part des Français de proposer au roi aucune condition ; dit qu'il fallait s'en rapporter uniquement à lui, à ses bonnes intentions, et à ses principes éprouvés.

L'un des plénipotentiaires avait dit, dans l'une de ces cinq ou six conversations qui eurent lieu, que le roi devait, en entrant à Paris, prendre la cocarde tricolore ou nationale, à laquelle tout le peuple

Français portait affection, et qui se rattachait à tant d'idées et de sentiments chers à la nation, que cette condescendance de la part du roi, qui était conseillée au roi même par des hommes considérables dans l'armée et dans le civil, en qui le roi avait toute confiance, que cette condescendance serait en ce moment un des plus puissants moyens de réunion et de paix, et préviendrait peut-être de nouvelles tempêtes politiques pour l'avenir. Le Duc de Wellington se récria beaucoup, et même avec une chaleur marquée, contre cette idée de cocarde nationale; il dit que cela était impossible, improposable que la cocarde tricolore était une invention, un signe toujours visible de la révolution; que le roi ne devait pas la prendre, qu'il ne la prendrait certainement pas. L'un des plénipotentiaires lui fit observer, que la cocarde tricolore ne serait pas plus un signe visible de la révolution, que ne pouvoit l'être l'habit de l'armée Française, et de toute la garde nationale de France, qui était aussi aux trois couleurs.

Du reste, les plénipotentiaires furent très-satisfait de sa politesse simple et franche, de ses égards, et de l'espèce de confiance avec laquelle il leur parla. Voici, par exemple, un des traits de cette franchise et de cette confiance qui est assez curieux:—Un jour qu'il était à causer avec eux, on lui apporta un paquet de M. de Metternich; après en avoir pris lecture, il leur dit, Savez-vous ce que c'est? Ce sont ces Messieurs qui m'écrivent qu'ils viennent d'être avertis que le gouvernement provisoire envoie des plénipotentiaires vers moi pour traiter, qu'ils désirent que je ne les reçoive pas, et que je n'aie aucun rapport avec eux. Parbleu! je ferai moi ce qu'il me plaira. Je n'ai pas besoin que ces Messieurs me souscrivent leurs ordres; nous continuerons donc de nous voir tout comme auparavant. Voilà les détails que vous m'avez demandé, et que je vous donne, *d'après ce que vient de me dire*, il y a deux jours, l'un de ces plénipotentiaires, sur l'exactitude duquel je crois que l'on peut tout-à-fait compter.

SUR LES DERNIÈRES ÉLECTIONS. (See p. 403.)

Ce qu'on a imprimé sur ce sujet dans le *Morning Chronicle* du 28 Décembre est parfaitement exact. Voici ce que je crois pouvoir y ajouter pour vous. Talleyrand et ses collègues arrivèrent à Paris au retour du Gard, tellement effrayés de l'esprit de la dernière *Chambre des Représentants*, et de la disposition des assemblées électorales qui les avaient nommés, qu'ils crurent qu'il fallait recourir à quelque moyen extraordinaire pour y faire dominer

l'esprit de royalisme, qu'ils croyaient ne pouvoir être que le royalisme constitutionnel ; mais en recourant à ce *moyen extraordinaire*, ils ne surent mettre dans l'exécution, ni habileté, ni prévoyance, ni même le moindre degré de l'attention la plus commune.

Ils choisirent d'abord, sans le moindre discernement, et sur la présentation qui leur en fut faite par des gens plus habiles qu'eux, des hommes dont la très-grande majorité était connue pour être opposée aux principes de la révolution, et nommèrent ces hommes présidents, des 368 collèges d'arrondissements, et des 83 collèges des départements. Ils firent rendre ensuite par le roi une ordonnance qui adjoignait 10 nouveaux membres à chaque collège, et 20 à chaque collège de département. Ces nouveaux membres devaient être choisis par chaque préfet parmi les *citoyens qui ont rendu des services* ; c'était environ 60 électeurs que chaque préfet avait droit de nommer. Il faut remarquer, que d'après la loi sur cette matière (du 4 Août, 1802), le nombre des électeurs d'arrondissement ne peut excéder 200, ni être au-dessous de 120, et le nombre des électeurs de département ne peut excéder 300, ni être au-dessous de 200. Quand l'ordonnance fut rendue, et que les présidents eurent été nommés, le Prince de Talleyrand abandonna toute l'affaire à *la grâce de Dieu*. Pendant ce temps-là, les ultra-royalistes surent bien mettre à profit l'insouciance, la léthargie, l'incapacité du ministère. Ils entourèrent de leurs parents, de leurs amis, les préfets, sous-préfets, et présidents des collèges ; tous les moyens de séduction et de menaces furent employés pour faire nommer leurs créatures et eux-mêmes *adjoints* de ces collèges. Ainsi, à l'iniqu du ministère, et à l'instant même où, dans la plus parfaite confiance dans le succès de sa mesure, il se livrait sottement à l'espérance d'avoir une assemblée nouvelle toute nommée dans son sens, les ultra-royalistes préparaient l'assemblée qui devait chasser cet inépte ministère qui n'a su jamais montrer quelque habileté, que lorsqu'il a marché à la suite de Bonaparte et de ses 500,000 hommes.

Les adjoints une fois formés dans chaque assemblée, et formés dans le même esprit, s'unirent fortement entre eux, et firent leurs listes des députés ; ils se réunirent tout naturellement par les mêmes choix aux autres royalistes des collèges qui n'avaient pas paru dans la dernière élection de la *Chambre des Représentants* sous Bonaparte ; ils détachèrent de l'autre parti beaucoup d'hommes ou indifférents ou effrayés de l'ascendant qu'ils voyaient que les *ultra-royalistes* allaient prendre dans le gouvernement, et dont ils ne voulaient point s'exposer à être victimes ; ils en attirèrent aussi d'autres par la promesse d'être récompensés par le gouvernement de

leur dévouement à sa cause. Pendant que le parti ultra-royaliste se grossissait ainsi, l'autre parti diminuait par la raison contraire : un grand nombre d'électeurs qui avaient voté pour la nomination de la dernière Chambre des Représentants n'osèrent point se présenter, ou ne le voulurent pas, persuadés d'avance de l'espèce des choix qui allaient être faits.

Dans plus d'un département il y eut des provocations et des menaces de la part des *ultra-royalistes* contre ceux qui avaient voté pour *l'acte additionnel* ; et vous savez que le nombre de ces votants a été de plus de 1,300,000. En général, comme le petit nombre d'*ultra-royalistes* était regardé comme ayant le gouvernement en sa faveur, et qu'en appréhendait de la part du gouvernement des réactions et des vengeances, les autres craignaient en les heurtant de se faire désigner par eux aux persécutions dont d'ailleurs ces Messieurs ne se faisaient aucun scrupule de se vanter, surtout dans les départements de l'ouest et du midi.

D'autres circonstances se sont jointes encore à celles-là ; dans plusieurs départements, les cultivateurs, riches fermiers, et autres, dont les maisons étaient occupées par les troupes ennemis, n'ont point osé les quitter et abandonner ainsi leurs familles à la discrétion de tels hôtes, pour se rendre aux assemblées électorales ; ainsi l'on peut dire, avec vérité, que dans plusieurs départements cette partie, très-nombreuse de propriétaires, n'a pas concouru à l'élection ; et c'est ainsi, que par la circonstance de l'occupation militaire ennemie, la classe très-considérable en France des petits propriétaires ruraux n'a pu contrebalancer avec succès, comme elle l'aurait fait, l'influence du parti nobiliaire. Quant au fait particulier de M. d'Argenson dont vous me parlez, voici comme on m'a assuré qu'il s'était passé. Les troupes Allemandes établies dans le département du Haut Rhin, dont le chef lieu est *Colmar*, empêchaient toute communication entre l'arrondissement de *Belfort* et celui de *Colmar*, où se tenait l'assemblée électorale du département. Elles ne voulaient point en conséquence laisser passer les électeurs de *Belfort* qui demandaient à se rendre à *Colmar*. Le Général le Courbe, qui commandait la portion de l'armée Française que était de ce côté, obtint du Général Allemand des permissions pour envoyer à *Colmar* des commissaires Français relativement aux subsistances de son armée. Les choses s'arrangèrent de manière qu'on choisit pour commissaires des électeurs, et ceux-ci emmenèrent, sous le titre de domestiques et d'agents inférieurs, d'autres électeurs de *Belfort*. Ils se trouvèrent ainsi réunis à *Colmar* au nombre de 40, dans le même sens, et firent le choix qu'ils avaient voulu.

Il se passa dans l'un des arrondissements de ce même département

un fait assez curieux. Un président de collège eut la simplicité de lire publiquement dans son assemblée une lettre, par laquelle le préfet lui écrivait de faire tous ses efforts pour qu'on ne nommat point tel individu qu'il lui désignait. Cette balourdisse fit un grand effet dans l'assemblée, et mit le préfet en fureur contre le président. Il n'est que trop vrai que, dans les départements du midi, on a expulsé par la force ou empêché d'arriver par la crainte tous ceux qu'on croyait s'être trop prononcés autrefois en faveur de la révolution.

Dans le département du Gard, en particulier, les Protestants ont été menacés de la vie s'ils osaient paraître dans ces assemblées. Aucun d'eux ne s'y est montré, et ils forment le tiers de la population.

Dans le mémoire qui vient de paraître sous le nom de *Pozzo di Borgo*, et que celui-ci n'a pas fait démentir par un seul mot de sa part jusqu'à présent, vous trouverez quelques autres faits qui sont très-certains sur le même sujet. Vous en trouverez aussi, dans le 7^e vol. du *Censeur*, qu'on m'a assuré avait été envoyé d'ici à *Brougham*. Vous pouvez lui demander cet ouvrage, qui est très-curieux, et très-digne d'être lu. La police l'a fait saisir ici avant qu'on le mit en vente, en violation même de la loi très-restrictive sur la presse qui a été rendue l'année dernière. Du reste, rien n'est plus précieux en ce genre que la déclaration qu'a fait sur ce sujet le nouveau ministre de l'intérieur, *Vaublanc*, en présentant à la Chambre des Députés son nouveau projet de loi sur les *élections*, projet de loi qui est bien la chose la plus comique qu'on ait jamais imaginé sur cette matière. C'est le 18 Décembre dernier qu'il parlait ainsi, et vous trouverez ce curieux passage dans le *Moniteur* du 20. Le voici, remarquez bien que c'est à ces Messieurs qu'il dit cela en face ; aussi je vous assure qu'ils ont été fort choqués de cette ingénuité.

“Dans les dernières élections, vous avez vu que l'on a été obligé d'EMPLOYER DES MOYENS EXTRAORDINAIRES pour balancer l'influence que pouvait avoir eue sur les collèges électoraux l'esprit dans lequel ils avaient été formés, mais ces mesures, AUTORISÉES PAR LES CIRCONSTANCES, ne pourraient plus se renouveler : il faut donc une loi nouvelle.” Je ne crois pas que vos ministres soient aussi candides que celui-là ;—cela ferait trop de plaisir à vous et à vos amis. Chaque mot de ce singulier passage mérite d'être pesé. Quant à cette loi nouvelle, je vous dirai en deux mots qu'elle propose sérieusement d'avoir des collèges électoraux composés d'archévêques, d'évêques, de curés, de vicaires, juges de paix, présidents des tribunaux de justice, des tribunaux de commerce, des procureurs

du roi, &c. Vous voyez qu'avec ce digne homme nous serions bien à l'abri des dangers du *suffrage universel*. Du reste, ce projet de loi prétendue a excité une risée si universelle, qu'il dit maintenant qu'il ne tient pas à son projet, et qu'il ne demande pas mieux que d'en voir proposer un autre; et cependant, grâce à la précieuse prérogative de l'initiative royale! cette ridicule extravagance a été présentée à la Chambre des Députés, précédée de la formule d'usage, *Louis par la grâce de Dieu Roi de France et de Navarre*, et terminée par *l'an de grâce 1815, et de notre règne le 21^e*.

Les ultra-royalistes n'en veulent pas, parcequ'ils disent que ces collèges électoraux n'étant que des collèges d'hommes publics, seraient des collèges révolutionnaires. Les autres n'en veulent pas non plus, parcequ'ils disent que ces collèges seraient toujours sous la main du gouvernement, puisqu'ils ne seraient presque compris que de ses agents.

Voilà le degré de déraison où l'on est parvenu en ce pays c'est à dire, où sont parvenus les hommes qui veulent gouverner une nation accoutumée depuis 25 ans à des opinions et à des sentimens si différents. Quant à ces dernières élections dont je viens de vous parler, je vous assure que si l'on pouvait rire en si triste matière, ce serait du désappointement de cet habile ministère précédent, qui, comme nous le disons en Français, n'a su que préparer les verges pour se faire fouetter, et qui a été tellement épouvanté de son propre ouvrage, qu'il s'est hâté de déménager, sans attendre qu'on le chassât.

Ce dernier ministère se trouve placé maintenant entre deux partis qui le haisseut et le méprisent également. On prétend que le chef cherche à se faire reporter à sa place par l'influence de votre illustre Duc, mais je crois que celui-ci se contentera de la gloire et de l'habileté d'y avoir, en arrivant, fait placer son ancien collègue, *Fouché*.

No. II.

(See vol. ii. pp. 133, 455, 461.)

In a codicil to Sir Samuel Romilly's will is the following passage:—"I leave to Rev. Dr. Samuel Parr, as a token of my respect and affection for him, my copy of Aristophanes, *Editio princeps*. I likewise bequeath to him all the plate which he some time ago very generously presented to me. It was a testimonial of his approbation of my conduct which I was justly proud of. He had originally left it to me by his will, and afterwards thought proper to discharge the legacy in his lifetime. I will, however, consider it but as a legacy to me; and therefore, if I do not survive him, I return it to him by

this my will." On being informed of these bequests, Dr. Parr, on the 11th Nov. 1818, wrote a letter to Mr. Whishaw, Sir S. Romilly's executor, of which the following is an extract :—

"I thank you again and again for the contents of your letter and for the friendly spirit which pervades it; and now, dear Sir, I address myself to you and your brother-executor. I set a just value upon the motives which induced my dear friend to bequeath the plate to me. First, I shall accept it as given by him, and I will send a receipt to the executors, but no earthly consideration will induce me to keep possession of it. I must entreat you, at a proper time, to convey to the eldest son of Sir Samuel my earnest wish that he would have the goodness to accept the whole service of plate, as a mark of my unfeigned good-will to himself, and of my unaltered esteem, affection, and veneration for the dear and sacred name of his father."

The present thus offered was accepted; and the following is the concluding letter from Dr. Parr on this subject :—

" Dear Mr. Romilly,

" Hatton, Jan. 17, 1819.

" The heart which now glows with kindness towards yourself and those who are dearest to you will ere long cease to beat, and the hand which subscribes this letter will be mouldering in the grave. Till that season arrive, I shall ever take a solicitous and affectionate interest in the health and welfare of those who bear your most honoured name. It has derived that appellation, dear Sir, from talents, from literary attainments, from professional knowledge, from spotless integrity, from benevolence unfeigned and unwearied, such as rarely adorn the sons of men; such as procured, for the possessor, from me esteem, reverence, unbounded confidence, and regard more than brotherly; such as are written in characters quite indelible on the tablets of my memory; such, too, as will ever exercise, and will ever improve, and ever consecrate, the purest and noblest feelings of my soul. He that stands, as I do, upon the brink of eternity, will anxiously look back to those examples which have made him a wiser and a better man, and he will lift up his hope to another and a happier state, in which all tears will be wiped away from all eyes, and the pangs of separation will be dreaded no more.

" When your letter reached me, I gazed upon it eagerly; I grasped it with agony; I could by no effort summon fortitude sufficient to open it. I laid it by till my spirits should be more composed. I opened it fearfully; I read it most attentively; I was soothed with

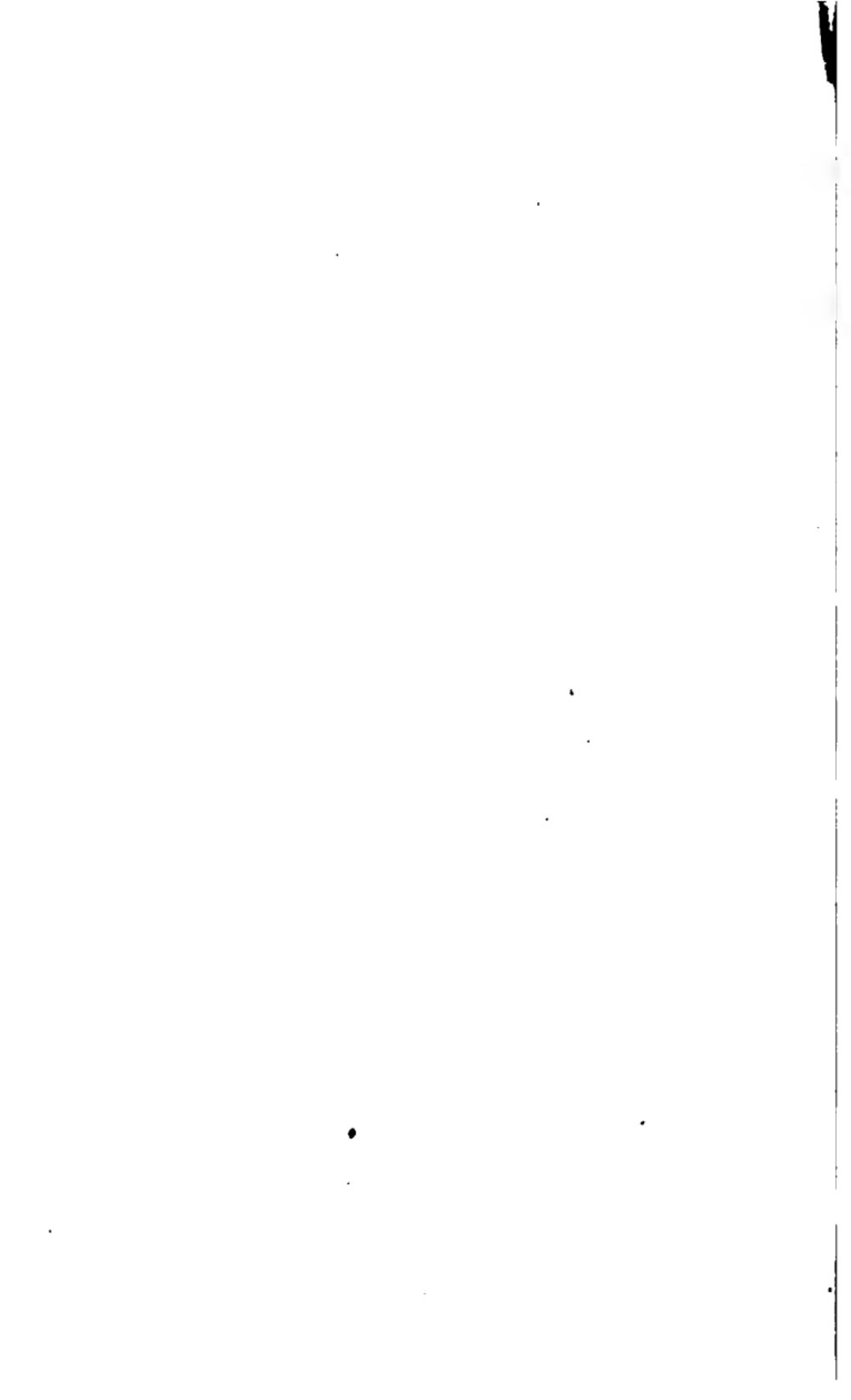
the matter, and the language, and the spirit. I shall preserve it carefully to the latest moment of my life, and I shall direct those who come after me to place it among the most precious and sacred memorials of friendship.

“Mr. Romilly, I entreat you to accept my sincerest and most thankful acknowledgments for the honour which you have conferred upon me in permitting me to transfer for your use the plate. May Heaven grant you long life, uninterrupted health, and undisturbed spirits to avail yourself of my well-intended and well-accepted offer! Surely there will be some day, and some place, in which I shall have an opportunity to shake you by the hand. Come, I beseech you, and see me, and bring with you any of your brothers. In the mean time, you and they will accept my most sincere and most serious blessing.

“I have the honour to be, dear Sir,

“Your real friend and respectful obedient servant,

“SAMUEL PARR.”



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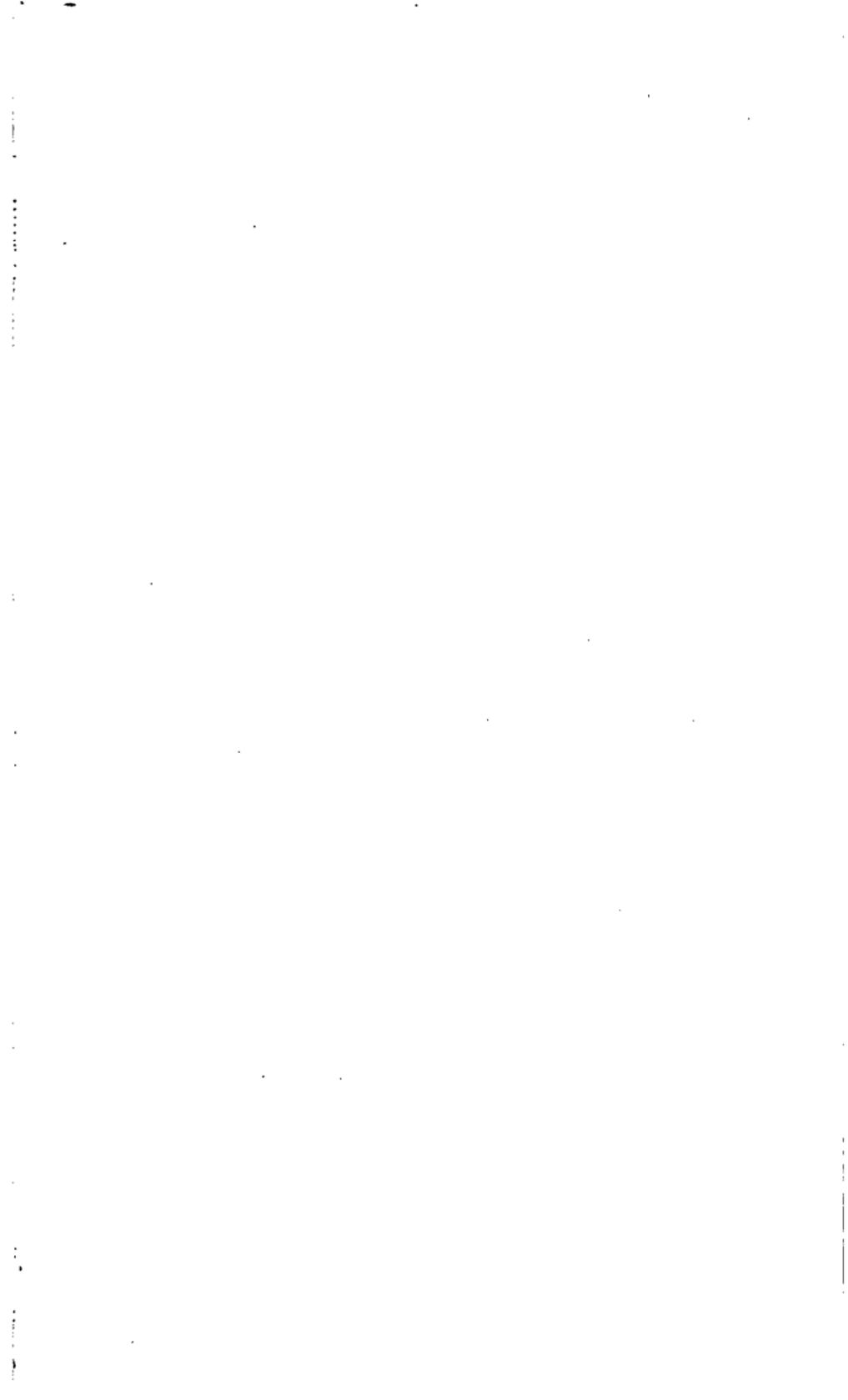
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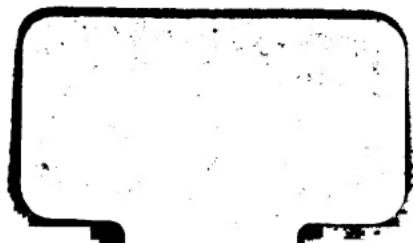


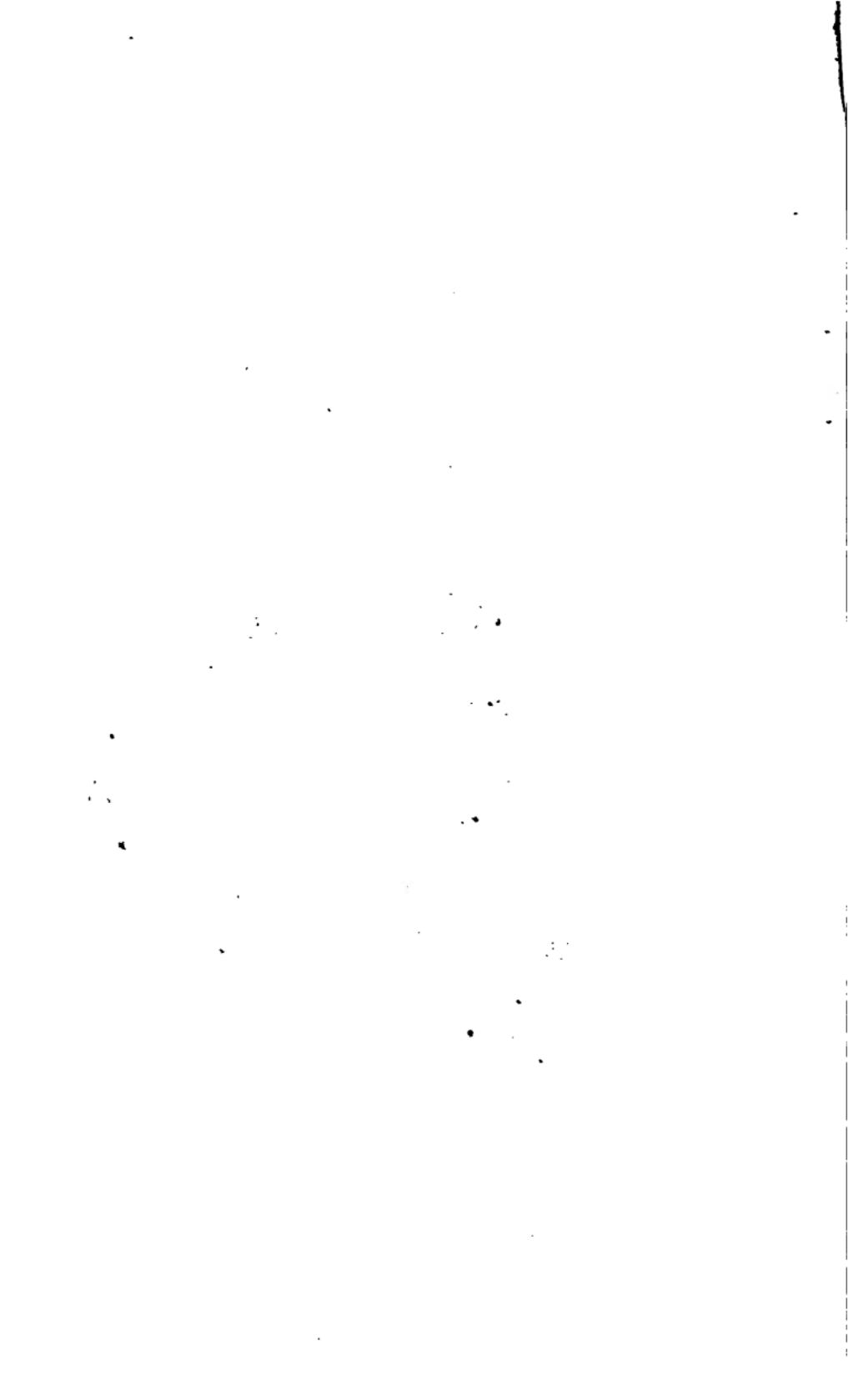


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